

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

Telecommunications Carriers Eligible to
Receive Universal Service Support

Boomerang Wireless, LLC

Petition for Limited Designation as
An Eligible Telecommunications
Carrier in Alabama, Connecticut, Delaware,
the District of Columbia, Florida, Maine, New
Hampshire, North Carolina, Tennessee, and
Virginia

WC Docket No. 09-197

**AMENDED PETITION OF BOOMERANG WIRELESS, LLC FOR
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER
IN ALABAMA, CONNECTICUT, DELAWARE, THE DISTRICT
OF COLUMBIA, FLORIDA, MAINE, NEW HAMPSHIRE,
NORTH CAROLINA, TENNESSEE, AND VIRGINIA**

John J. Heitmann
Joshua T. Guyan
Debra McGuire Mercer
Belen Crisp
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007
(202) 342-8400

Counsel to Boomerang Wireless, LLC

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Summary

Boomerang Wireless, LLC (Boomerang), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the Act)¹ and Sections 54.201-54.207 of the Federal Communications Commission's (FCC's or Commission's) rules,² submits this Amended Petition for Designation as an Eligible Telecommunications Carrier (ETC) in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, North Carolina, Tennessee and Virginia (Federal Jurisdiction States). Boomerang submits this Amended Petition to remove New York from the list of requested ETC designation territories, update ownership information including its proposed acquisition by ViaOne Acquisition Company, LLC, expand its proposed Lifeline offering, and confirm its compliance with the Commission's rules governing the Lifeline program. Specifically, and as described below, Boomerang proposes to provide Lifeline customers in the Federal Jurisdiction States with low-cost plan options that include a plan with 4.5 GB of data per month for a co-pay of \$25, and Lifeline customers who reside on Tribal lands with a no-cost plan that includes 4.5 GB of data per month.

On December 29, 2010, Boomerang filed a request for ETC designation in those states for which the Commission had jurisdiction to designate ETCs.³ On June 6, 2012, Boomerang amended its pending request for ETC designation to extend the scope of its original request to include Tribal portions of Boomerang's territory within the identified states and to update its request for limited ETC designation consistent with the Commission's rule changes to the

¹ See 47 U.S.C. § 214(e)(6).

² See 47 C.F.R. §§ 54.201-54.207.

³ See Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, The District of Columbia, New Hampshire, New York, North Carolina, Tennessee, and Virginia, WC Docket No. 09-197 (filed Dec. 29, 2010) (Petition). The listed states, with the exception of New York, are the current Federal Jurisdiction States.

Lifeline program and the obligations imposed on Lifeline-only ETCs.⁴ Also, as stated in Boomerang's Compliance Plan, originally filed March 1, 2012, revised on July 26, 2012, and approved by the Wireline Competition Bureau (Bureau) on August 8, 2012,⁵ Boomerang filed the Amended Petition in order to avail itself of the Commission's conditional grant of blanket forbearance from the "own facilities" requirement in Section 214(e)(1) of the Act.⁶ Boomerang filed a further Amended Petition on September 18, 2012, to expand the scope of its petition to include the State of Florida, define its proposed service area by providing a list of study areas, revise its proposed Lifeline service offerings, and note that its Compliance Plan had been approved by the Bureau.

On December 18, 2012, Boomerang filed a further Amended Petition stating that it would ask all Lifeline applicants in the states listed whether they or anyone in their household were receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Further, Boomerang clarified that only Boomerang employees will enroll applicants in its Lifeline service at Boomerang events where phones are distributed, and with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment. On February 1, 2013, Boomerang provided additional information regarding its customer service contacts and included a minor addition to its list of study areas for service. On April 11, 2013, Boomerang amended its Petition to: (1) identify its underlying GSM carriers; (2) include a copy of the letter it filed with the Commission regarding

⁴ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (Lifeline Reform Order).

⁵ As discussed below, Boomerang filed an Amended Compliance Plan on April 30, 2021.

⁶ See Lifeline Reform Order, ¶ 369.

its use of the brand enTouch Wireless; (3) include its Lifeline plans for residents of Tribal lands and describe its outreach efforts to such customers; (4) clarify its options for the purchase of additional minutes; and (5) provide revised Lifeline application/certification forms that were to be used in the Federal Jurisdiction States.

On May 2, 2014, Boomerang filed a further Amended Petition to expand the scope of its Petition to include the State of Maine. In addition, Boomerang generally updated certain information in its Petition, including its corporate structure, underlying carriers, and pricing for top-ups. On August 25, 2015, Boomerang filed a further Amended Petition to expand its proposed Lifeline offering by increasing the amount of data offered to all Lifeline customers, including Lifeline customers who reside on Tribal lands.

Boomerang offers affordable and reliable telecommunications services to low-income end user customers. Boomerang's prepaid wireless services combined with low-cost handsets provide a reasonable alternative to traditional post-paid services. Boomerang provides low-income customers, who might not otherwise be able to afford traditional services, dependable voice and data services as well as additional features and functionalities including, for example, call waiting, caller ID, and voicemail.

Sections 214(e) and 254 of the Act, and the Commission's rules, expressly authorize the Commission to designate Boomerang as an ETC. Specifically, Section 214(e)(6) of the Act provides that the Commission shall confer ETC status on a common carrier where the carrier's services do not fall subject to the jurisdiction of a state commission.⁷ Boomerang provides herewith affirmative statements conclusively showing that the states in which it seeks ETC designation lack jurisdiction to confer ETC status to Boomerang. Further, Boomerang meets the

⁷ See 47 U.S.C. § 214(e)(6).

statutory and regulatory requirements for ETC designation. And, finally, consumers will benefit greatly from such designation in the form of low-cost, high-quality wireless service and access to a host of add-on features.

As such, grant of this application is in the public interest, and Boomerang respectfully requests that the Commission grant this application on an expedited basis.

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Boomerang Wireless, LLC (Boomerang or the Company), pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended (the Act)⁸ and Sections 54.201–54.207 of the Federal Communications Commission’s (FCC’s or the Commission’s) rules,⁹ hereby files this Amended Petition seeking designation as an Eligible Telecommunications Carrier (ETC).

Boomerang requests ETC designation for the limited purpose of offering Lifeline services to low-income customers in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, North Carolina, Tennessee and Virginia (Federal Jurisdiction States).

⁸ See 47 U.S.C. § 214(e)(6).

⁹ See 47 C.F.R. §§ 52.201-52.207.

I. Changes to the Scope of Boomerang's ETC Petition

Boomerang originally filed its Petition on December 29, 2010.¹⁰ On June 6, 2012, Boomerang amended its Petition¹¹ to include Tribal portions of Boomerang's territory within the identified states and to bring the request for limited ETC designation into compliance with the FCC's rule changes to the Lifeline program and the obligations imposed on Lifeline-only ETCs.¹² Boomerang also filed its amended Petition in order to avail itself of the Commission's conditional grant of blanket forbearance from the "own facilities" requirement of Section 214(e)(1) of the Act.¹³ On September 18, 2012, Boomerang amended its request to extend the scope of its original request for ETC designation to include the State of Florida, define its proposed service area by providing a list of study areas, revise Boomerang's proposed Lifeline service offerings, and note the Wireline Competition Bureau's (Bureau's) approval of Boomerang's Compliance Plan. On December 18, 2012, Boomerang amended its Petition to state that it would inquire of all Lifeline applicants in the states listed whether they or anyone in their household were receiving Lifeline service from any other provider, including from one of the other major Lifeline providers in the state. Boomerang clarified that only Boomerang employees will enroll applicants in its Lifeline service at Boomerang events where phones are

¹⁰ See Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee, and Virginia, WC Docket No. 09-197 (filed Dec. 29, 2010) (Petition).

¹¹ See Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, New Hampshire, New York, North Carolina, Tennessee, and Virginia, WC Docket No. 09-197 (filed June 6, 2012).

¹² See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (Lifeline Reform Order).

¹³ See Lifeline Reform Order, ¶ 369.

distributed, and with regard to other enrollments, a Boomerang employee will be responsible for overseeing and finalizing every Lifeline enrollment. On February 1, 2013, Boomerang provided additional information regarding its customer service contacts and included a minor addition to its list of study areas for service.

On April 11, 2013, Boomerang amended its Petition to (1) identify its underlying GSM carriers; (2) include a copy of the letter it filed with the Commission regarding its use of the brand enTouch Wireless; (3) include its Lifeline plans for residents of Tribal lands and describe its outreach efforts to such customers; (4) clarify its options for the purchase of additional minutes; and (5) provide revised Lifeline application/certification forms that would be used in the Federal Jurisdiction States.

On May 2, 2014, Boomerang amended its Petition to include the State of Maine and to generally update its Petition regarding its corporate structure, underlying carriers, and pricing for additional non-Lifeline-discounted services. On August 25, 2015, Boomerang amended its Petition to expand its proposed Lifeline offering by increasing the amount of data offered to all Lifeline customers, including Lifeline customers who reside on Tribal lands.

Boomerang is hereby amending its pending request for ETC designation to include information about a proposed change in the Company's ownership, remove New York from the group of jurisdictions for which it seeks ETC designation, describe its current Lifeline plans, and confirm that it will comply with changes to the Commission's rules governing the Lifeline program, including the full implementation of the Lifeline National Verifier, use of standardized application and recertification forms, and new requirements for Lifeline enrollment representatives.

Boomerang demonstrates in this Amended Petition and its Amended Compliance Plan,¹⁴ incorporated by reference and attached as Exhibit A, that it satisfies the conditions necessary to benefit from the Commission’s conditional grant of blanket forbearance as well as all the requirements necessary to be designated a “Lifeline-only” ETC — and that it is in the public interest for the Commission to grant this Amended Petition as Boomerang will be able to provide low-income consumers in these states with reliable and cost-effective wireless services. Boomerang’s Compliance Plan was originally filed on March 1, 2012, revised on July 26, 2012, and approved by the Bureau on August 8, 2012. Boomerang’s most recent Amended Compliance Plan was filed on April 30, 2021.

Accordingly, Boomerang respectfully requests that the Commission grant this application on an expedited basis to designate it as an ETC in 10 Federal Jurisdiction States — Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, North Carolina, Tennessee, and Virginia.

II. Background

A. Company Overview

Boomerang is currently majority-owned (51%) by HH Ventures, LLC (HH Ventures), an Iowa limited liability company, and minority-owned (49%) by ViaOne Acquisition Company, LLC (ViaOne), a Delaware limited liability company. ViaOne is equally owned by three entities: Flagship Equity Partners, LLC; BBY, Ltd.; and SXCS Investments, LLC. Each of these entities is organized under the laws of the State of Texas and none has a controlling ownership interest in ViaOne. Prior to December 18, 2020, Boomerang was wholly owned by HH Ventures. On December 18, 2020, HH Ventures and ViaOne entered into a Membership

¹⁴ See Boomerang Wireless, LLC Amended Compliance Plan, WC Docket Nos. 09-197, 11-42 (filed April 30, 2021) (April 30, 2021 Amended Compliance Plan).

Interest Purchase Agreement (Agreement) wherein ViaOne agreed to purchase Boomerang from HH Ventures. Under the Agreement, ViaOne initially acquired 49% of the Membership Interests owned by HH Ventures and it will acquire the remaining 51% of Membership Interests, thereby gaining control of Boomerang, upon receiving necessary regulatory approvals, including approval of the April 30, 2021 Amended Compliance Plan. Following the proposed change in Boomerang's ownership, the Company's corporate and trade names and identifiers will remain unchanged. The proposed transaction will not result in any loss or impairment of service for any customer, and immediately following consummation of the transaction, customers will continue to receive their existing services at the same or better rates, terms, and conditions than currently in effect. Thus, the proposed transaction holds no adverse effects for the Company's customers and, indeed, will be transparent to them.

Boomerang is in the process of transitioning to utilizing ViaOne Services, LLC (ViaOne Services), ViaOne's affiliated company,¹⁵ as its Mobile Virtual Network Enabler (MVNE).¹⁶ ViaOne Services' core management team currently includes five senior executives and employs 55 full time employees. ViaOne Services is a cash-flow positive entity with diverse business operations. ViaOne Services currently is the sole owner or majority owner of seven subsidiaries: Alchemy Insurance Agency, Assist Wireless, Cali Distribution, LLC, CTC Outreach Marketing, Good Gaming, Inc., PayGo Distributors, and V1 Fiber. ViaOne Services, itself and through its subsidiaries, provides integrated communications services as an MVNE, including Mobile

¹⁵ ViaOne Services is a Texas limited liability company. Over 98 percent of ViaOne Services is owned by the same three entities that own ViaOne with each having a 32.84 percent ownership interest. The remaining less than two percent of ViaOne Services is owned by two individuals. None of the owners has a controlling ownership interest in ViaOne Services.

¹⁶ Boomerang currently relies on Ready Wireless, LLC, a subsidiary of HH Ventures, as its MVNE. Boomerang expects its transition to ViaOne Services as its MVNE will be complete by November 2021.

Virtual Network Operator (MVNO) enablement, cellular carrier access aggregation, voice/text/data services, marketing services, deployment of mobile services to customers, and operational support.¹⁷

On December 6, 2020, Boomerang entered into a distribution agreement with ViaOne Services subsidiary Cali Distribution, LLC to distribute Lifeline services and enroll Lifeline subscribers, subject to Boomerang's oversight. Once the acquisition is complete, Boomerang will also benefit from the services of PayGo Distributors, which provides outreach, sales, and marketing services for Lifeline providers. ViaOne Services also has significant experience providing services that comply with the requirements of the Lifeline program through its subsidiary, Assist Wireless, a wireless Lifeline-only ETC designated in the States of Arkansas, Maryland, Missouri, and Oklahoma. Assist Wireless has been successfully providing Lifeline-supported service since January 2011 and has an established customer base, serving nearly 51,000 Lifeline customers. Using ViaOne Services' established MVNE services, Boomerang will continue to have the ability to reach eligible consumers throughout the country.

Boomerang seeks ETC designation in order to provide domestic voice and data services to low-income customers under the brand enTouch Wireless. Boomerang also intends to provide Lifeline-only service to residents of Tribal lands.¹⁸ Boomerang resells the services of T-Mobile/Sprint¹⁹ and Verizon Wireless to provide Lifeline services. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint.

¹⁷ The April 30, 2021 Amended Compliance Plan notes that the MVNE services will be provided by ViaOne. *See* April 30, 2021 Amended Compliance Plan at 6. As noted herein, the specific ViaOne entity that will provide the MVNE services is ViaOne Services.

¹⁸ In accordance with 47 C.F.R. § 54.202(c), Boomerang is providing a copy of this Amended Petition to the affected tribal governments and tribal regulatory authorities.

¹⁹ Boomerang has MVNO agreements for both the T-Mobile and Sprint networks. At this time, the merged T-Mobile/Sprint entity has advised that Sprint network service will discontinue in approximately January 2022.

Boomerang, and both its current and future parent and affiliate companies, have direct, in-depth experience providing voice and data products to subscribers using their carrier relationships.

Boomerang's primary distribution models focus on grassroots marketing processes and establishing connections within the communities Boomerang serves. Full-time employees create neighborhood events to build awareness of the Lifeline program and to distribute phone services to eligible consumers. Boomerang's approach develops long-term ongoing relationships with community organizations to provide grassroots support of targeted populations. These community grassroots efforts keep the enTouch brand relevant and in the forefront of the communities it serves. Event staff is trained on the program compliance requirements and creates a positive community experience. The Company also diligently implements measures to prevent waste, fraud, and abuse.

Because the Company already has in place nationwide distribution channels and activation processes, it is ready to offer mobile voice and broadband data services to low-income consumers in the Federal Jurisdiction States. Because of the Company's established multi-channel, multi-partner approach, it has the ability to reach eligible consumers throughout the Federal Jurisdiction States. In addition, Boomerang expects to advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, pamphlet distribution, and meetings with government agencies.

B. Proposed Lifeline Offering

Boomerang will offer its Lifeline service throughout the coverage area of its underlying carriers (T-Mobile/Sprint and Verizon Wireless) in all states where it is designated as an ETC. The Company's plans and options will be offered immediately in the Federal Jurisdiction States upon Boomerang's designation as an ETC.

Boomerang's Lifeline offerings include a range of service plan options for Lifeline subscribers. Among its Lifeline offerings is a 1,000 minute, 500 text and 100 MB plan at no cost to the end user and an unlimited voice, unlimited text, and 4.5 GB of data plan for a co-pay of \$25, which meets the mobile broadband minimum service standard (MSS) of 4.5 GB, pursuant to the Commission's most recent waiver of the MSS established in Section 54.408 of the Commission's rules.²⁰ The Company's Enhanced Lifeline plan of unlimited voice and text and 4.5 GB of data is available to Tribal customers that reside on Federally Recognized Tribal lands at no cost. Boomerang's Lifeline offerings are detailed in Exhibit C to its April 30, 2021 Amended Compliance Plan, attached hereto as Exhibit A. The Company commits to modify its service offerings to meet or exceed the MSS as they change, in accordance with the Commission's rules or other Commission action. Additional information regarding the Company's plans, rates, and services can be found on its website: www.entouchwireless.com.

Boomerang also has several additional non-Lifeline-discounted services available to Boomerang customers. Boomerang entered into a joint venture with InComm to distribute ubiquitous additional non-Lifeline-discounted services through major retail chains. The enTouch logo is included on the front and back of the card, making it easier for the consumer to associate this service with their Lifeline handset. The bundles are easy to find and represent an improved value to consumers. Lifeline customers are able to purchase certain such plans at a discounted rate. Presently, the plans are as follows:

- 1) For \$5.00, the customer has 30 days from activation to use 0.5 GB of data. This price is applicable to Lifeline and non-Lifeline customers.

²⁰ See 47 C.F.R. § 54.408; *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, 10-90, Order, FCC 20-1358 (WCB Nov. 16, 2020).

- 2) For \$10.00, the customer has 30 days from activation to use 1 GB of data. This price is applicable to Lifeline and non-Lifeline customers.
- 3) For \$10.00, the customer has 30 days from activation to use unlimited anytime voice minutes or texts and 0.5 GB of data. This is a discounted price only available to Lifeline customers. The standard retail price is \$20.00.
- 4) For \$20.00, the customer has 30 days from activation to use unlimited anytime voice minutes or texts and 1 GB of data. This is a discounted price only available to Lifeline customers. The standard retail price is \$30.00.
- 5) For \$40.00, the customer has 30 days from activation to use unlimited anytime voice minutes or texts and 4 GB of data. This is a discounted price only available to Lifeline customers. The standard retail price is \$50.00.

III. ETC Designation

A. The Commission Has the Authority to Perform the Requested Designations

While the authority to designate ETCs traditionally falls on state utility commissions, Sections 214(e) and 254 of the Act authorize the FCC to designate Boomerang as an ETC in the Federal Jurisdiction States. Specifically, Section 214(e)(6) of the Act provides that the Commission may confer ETC status on a common carrier where the carrier's services are not subject to the jurisdiction of a state commission. In its original ETC Petition, Boomerang supplied affirmative statements from all the states in which it sought ETC designation that the states lack the authority to perform the requested designations for wireless carriers. Those

statements, which were previously submitted as Exhibit D to the May 2, 2014 Amended Petition, are provided as Exhibit B to this Amended Petition.²¹

Specifically, Boomerang has submitted affirmative statements from state commissions in the identified states showing that each lacks jurisdiction to confer ETC status. Boomerang has submitted copies of the following orders and correspondence:

The Alabama Public Service Commission issued an order finding that its “jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial radio services,” and that “wireless providers seeking ETC status should pursue their designation request with the FCC.”

The Connecticut Department of Public Utility Control provided a letter confirming that it lacks jurisdiction over wireless ETC petitions.

The Delaware Public Service Commission issued an order clarifying that as a “federal default state,” it does not administer its own ETC program.

The District of Columbia confirmed by letter that it lacks jurisdiction to designate wireless carriers as ETCs.

The Florida Public Service Commission acknowledged by letter that “the revision to Chapter 364, Florida Statutes, changed the Commission’s jurisdiction regarding telecommunications companies.” The letter confirmed that “the Federal Communications

²¹ See Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia, WC Docket No. 09-197, Exhibit D (filed May 2, 2014). Exhibit B to this Amended Petition includes the affirmative statements that were previously provided for all states, except New York.

Commission, rather than this Commission is the appropriate agency to consider. . .[bids] for ETC status.”

On June 13, 2013, the Maine Public Utilities Commission (PUC) issued an order amending Chapter 206 of its rules and stated that the PUC “will no longer certify carriers that apply for ETC designation for the sole purpose of offering Lifeline, Link-Up, or other low-income program benefits. Going forward, such carriers will apply to the [FCC] for ETC designation.”

The General Counsel of the New Hampshire Public Utilities Commission issued a letter confirming that the PUC lacks jurisdiction to consider petitions for ETC status filed by mobile radio communication carriers.

The North Carolina Utilities Commission released an Order concluding that “the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC.”

The Tennessee Regulatory Authority issued an order finding that its statutory “lack of jurisdiction over CMRS providers” precludes it from processing ETC petitions.

The Virginia State Corporation Commission issued an order stating that it “has not asserted jurisdiction over CMRS carriers” and that wireless ETC applicants “should apply to the Federal Communications Commission.”

Also, while not specifically stated in the original Petition, Boomerang clarified in an amendment to the Petition filed on June 6, 2012, that it is seeking designation as an ETC in the Tribal areas throughout its service territory in the identified states.

Accordingly, for each of the above states, Boomerang requests that the Commission exercise its authority under Section 214(e)(6) and determine that it is not subject to a state commission's ETC jurisdiction.

B. Boomerang Satisfies All Requirements to Be Designated a Lifeline-Only ETC

In order to receive an ETC designation, Section 214(e)(1) of the Act and Section 54.201(d) of the Commission's rules provide that petitioning carriers must:

1. be common carriers;
2. offer all of the services supported by federal USF support mechanisms;
3. use their own facilities or a combination of their own facilities and the resale of another carrier's services, except where the Commission has forborne from the "own facilities" requirement;
4. advertise the availability and pricing of their universal service support qualifying services; and
5. comply with all of the relevant regulations applicable to ETCs.

1. Boomerang Qualifies as a Common Carrier

Boomerang is a common carrier because it is a company providing interstate and foreign communications by radio²² and qualifies as a Commercial Mobile Radio Service (CMRS) provider.²³ In addition, section 332(c)(1)(A) of the Act states that CMRS providers will be regulated as common carriers.²⁴

²² The Act defines a common carrier as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" 47 U.S.C. § 153(11). The Act further defines a "person" to include "an individual, partnership, association, joint-stock company, trust, or corporation." 47 U.S.C. § 153(39).

²³ 47 C.F.R. § 20.3.

²⁴ 47 U.S.C. § 332(c)(1)(A).

2. Boomerang Offers the Services and Functionalities Supported by the Federal Low-Income Universal Service Program²⁵

In its original Petition, Boomerang established that it would offer all of the services and functionalities supported by the federal low-income Universal Service program. The Company seeks designation as an ETC to provide Lifeline service in the rural and non-rural study areas provided in Exhibit D to the Amended Petition filed on August 25, 2015, with the exclusion of all study areas within New York.²⁶ A revised list of study areas in which the Company seeks designation as an ETC is provided as Exhibit C to this Amended Petition. Boomerang understands that its service area includes the service areas of several rural carriers; however, the public interest factors discussed below and the Commission's precedent in granting ETC designation in such areas justify this designation as an ETC for purposes only of participation in the Lifeline program.²⁷

As set forth in the original Petition, Boomerang will provide voice grade access to the public switched telephone network through its agreements with underlying carriers (T-Mobile/Sprint and Verizon Wireless) that have executed interconnection agreements with local exchange carriers.

Boomerang will provide its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes. It will provide its Lifeline subscribers who are eligible for free handsets or who purchase handsets from Boomerang with E911-compliant handsets and replace, at no additional charge to its subscribers, noncompliant handsets of

²⁵ 47 C.F.R. § 54.201(d).

²⁶ The list was previously updated to include the Florida South Central Bell study area.

²⁷ *See also Telecommunications Carriers Eligible for Support, Lifeline and Link Up Reform*, WC Docket Nos. 09-197, 11-42, Memorandum Opinion and Order (Apr. 15, 2013) (granting forbearance from the requirement in Section 214(e)(5) of the Act and Section 54.207(b) of the Commission's rules that the service area of an ETC conform to the service area of any rural telephone company serving the same area.).

Lifeline-eligible subscribers who obtain Lifeline-supported services.²⁸

Since Boomerang filed its original Petition, the Commission has changed its definition of “supported services” for purposes of USF reimbursement. ETCs are no longer required to offer toll limitation service to low-income consumers if the Lifeline offering provides a set amount of minutes that does not distinguish between toll and non-toll calls.²⁹ Boomerang’s proposed Lifeline offering meets this requirement and, therefore, Boomerang will not offer toll limitation.

3. Boomerang Will Provide the Supported Services Consistent with the Commission’s Grant of Forbearance from Section 214’s Facilities Requirements

Boomerang provides domestic and international voice and broadband data services to low-income consumers as an MVNO, and provides a complete wholesale, MVNE platform to several ETCs and other white label partners using its underlying carriers’ (T-Mobile/Sprint and Verizon Wireless) network infrastructure. It purchases capacity on a wholesale basis from these underlying carriers and resells service packages to customers. Thus, it provides its basic voice and data services on a resale basis. Boomerang is not seeking to demonstrate, for purposes of satisfying Section 214(e)(1)(A) of the Act, that it provides the “supported services” described in Section 54.101(a) of the Commission’s rules in the identified states via a combination of its own facilities and the resold facilities of other carriers. Accordingly, Boomerang avails itself of the Commission’s conditional grant of blanket forbearance for purposes of providing service as a Lifeline-only carrier in these states. As stated above, Boomerang’s Compliance Plan was approved by the Bureau on August 8, 2012, and therefore, Boomerang is not required to make a facilities demonstration.

²⁸ See April 30, 2021 Amended Compliance Plan, at 7-8 (provided as Exhibit A) for additional details about Boomerang’s compliance with the 911 and E911 requirements.

²⁹ See Lifeline Reform Order, ¶ 229.

In addition, as stated above and in its April 30, 2021 Amended Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, Boomerang will provide its Lifeline customers with the same access to emergency calling, which is not assessed against service plans, and 911/E911 capable handsets.

4. Boomerang Will Advertise the Availability and Pricing for Its Universal Service Qualifying Offerings

Boomerang will advertise both the availability and pricing of its USF-qualifying offerings broadly in a manner reasonably designed to reach those who qualify for the service.³⁰ Its advertisements will be posted in various retail stores included in its distribution network. In addition, Boomerang will advertise the availability and prices of its services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, pamphlet distribution, and meetings with government agencies. Boomerang's event marketing and distribution platform will use demographic segmentation information to identify locations of populations with great need. Boomerang will organize positive and informative neighborhood events to create a local presence. Boomerang will also be promoting sign-up through online outreach. Boomerang will include all required information in its Lifeline marketing materials, including any web, print, and radio advertising as appropriate to support Boomerang's distribution model.

In addition, Boomerang has developed an action plan for reaching out to Tribal areas and partnering with the Tribes. The typical process generally includes:

- 1) Developing a background package on the Tribal populations in a given state including zip codes, number of households, Tribal affiliations/names, and Boomerang's network coverage.

³⁰ See 47 C.F.R. § 54.405(b).

- 2) Creating and providing an introductory package for the Tribal leadership including, but not limited to, a company introduction letter, Lifeline overview, service area map noting the coverage availability for the Tribal lands, and a copy of Boomerang's FCC Compliance Plan, which Boomerang would venture to review and discuss at a face-to-face meeting with the Tribal council and/or leadership.
- 3) Arranging for the Tribal Outreach Manager of Boomerang's event management group to meet with the Tribal leadership to determine if Boomerang can partner with the Tribe to reach their people. This would include hiring Tribal members to be cultural guides and provide outreach support. Doing so will help create jobs in the Tribal areas.
- 4) Translating, as necessary, materials for the Tribe or asking that a translator be available.
- 5) Finalizing the distribution plan and training the local people on Boomerang's processes, requirements, and messaging.

5. Boomerang Will Satisfy Its Statutory Obligations as an ETC

Boomerang will comply with the service requirements applicable to the support that it receives and the services it provides.³¹ Since the last time Boomerang amended its ETC Petition, the Commission has issued a few orders revising certain Lifeline service requirements.³² Boomerang has demonstrated how it will comply with all Lifeline service requirements in its April 30, 2021 Amended Compliance Plan, attached as Exhibit A.

³¹ See 47 C.F.R. § 54.202(a)(1)(i).

³² *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 00-197, and 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016); *Bridging the Digital Divide for Low-Income Consumers Lifeline and Link Up Reform and Modernization Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, and 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (rel. Dec. 1, 2017); *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, and 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019).

Boomerang has the ability to remain functional in emergencies.³³ Boomerang and its underlying carriers have created back-up systems to ensure full functionality in the event of a loss of power or network functionality. Boomerang's facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring, and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power.

Boomerang will satisfy the requirement to comply with consumer protection and service quality standards by complying with the CTIA Consumer Code for Wireless Service.³⁴

Boomerang customers can call customer service by dialing 611 from their Boomerang handset, and no minutes will be used or decremented for the call. Customers can also call toll-free (866) 488-8719 from any phone to reach customer service. Live customer service operators can be reached between 10:00 a.m. and 7:00 p.m. Monday through Friday (all times are in Central Standard Time). Boomerang is financially and technically capable of providing the Lifeline service in compliance with all of the Commission's low-income program rules.³⁵ Among the factors the Commission will consider are: (a) a carrier's prior offering of service to non-Lifeline subscribers, (b) the length of time the carrier has been in business, (c) whether the carrier relies

³³ See Petition at 12; 47 C.F.R. § 54.202(a)(2).

³⁴ 47 C.F.R. § 54.202(a)(3).

³⁵ See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, DA 12-314 (WCB rel. Feb. 29, 2012); See 47 C.F.R. § 54.202(a)(4).

exclusively on Lifeline reimbursements to operate, (d) whether the carrier receives revenues from other sources, and (e) whether the carrier has been the subject of an enforcement action or ETC revocation proceeding in any state.³⁶

The Company has not (and does not) rely exclusively on revenues from its provision of Lifeline services for its operating revenues. The Company also has access to additional capital resources from its parent and affiliate companies, its members, and its individual investors. ViaOne also derives significant revenues from its diverse affiliate operations, including non-Lifeline services, which will benefit Boomerang following final consummation of the purchase. The Company's financial resources position the Company to expand its operations to serve currently unserved/underserved eligible low-income and Tribal consumers and increase competition.

Boomerang is a wireless Lifeline-only ETC with such designation from 34 states and territories.³⁷ The Company has been successfully providing Lifeline-supported service since October 9, 2012 and service to non-Lifeline customers itself or through affiliates since 2008. Boomerang has an established customer base, serving over 88,000 Lifeline customers across the 34 states where it operates. The Company has ETC applications pending in Massachusetts, New Jersey, and Vermont. Boomerang has not sought High Cost support in any of the states for which it has been designated an ETC, nor has it sought High Cost support in any pending ETC application.

Boomerang has considerable expertise complying with the requirements of the federal

³⁶ See Lifeline Reform Order, ¶ 388.

³⁷ Those thirty-four states are: Arkansas, Arizona, California, Colorado, Georgia, Hawaii, Iowa, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Dakota, Nebraska, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Washington, Wisconsin, West Virginia, Wyoming, and Puerto Rico.

Lifeline program and marketing to the low-income consumer sector. Boomerang has direct control over the databases, systems, and processes controlling the customer records, usage records, and reporting, which provides the Company with the direct ability to adhere to Lifeline requirements. Boomerang has not been subject to enforcement actions or ETC revocation proceedings in any state.

The terms of Boomerang's proposed Lifeline offerings are detailed above in this Amended Petition.³⁸

In its original Petition, Boomerang committed to meeting its annual reporting requirements under Section 54.209, now rendered obsolete by the Commission's Lifeline Reform Order. Here, Boomerang commits to complying with the certification and reporting requirements contained in Sections 54.416 and 54.422 of the Commission's rules.³⁹

C. Boomerang Will Guard against Waste, Fraud, and Abuse

Boomerang has described in its April 30, 2021 Amended Compliance Plan, incorporated herein by reference and attached hereto as Exhibit A, how it will implement the Commission's procedures and work with the National Lifeline Accountability Database (NLAD) and the National Verifier to prevent customers from receiving duplicate service, ensure customer eligibility, and re-certify continued customer eligibility. As stated in the April 30, 2021 Amended Compliance Plan, Boomerang will comply with the Commission's Lifeline rules and orders, including the uniform eligibility criteria established in section 54.409 of the Commission's rules.⁴⁰ Boomerang shares the Commission's concerns about the potential for waste, fraud, and abuse of the Lifeline program and is thus committed to compliance with

³⁸ 47 C.F.R. § 54.202(a)(5)-(6).

³⁹ 47 C.F.R. §§ 54.416, 54.422.

⁴⁰ 47 C.F.R. § 54.409.

Commission's Lifeline rules as described below and as detailed in the April 30, 2021 Amended Compliance Plan.

Boomerang currently relies on the National Verifier and the NLAD (except in California, Oregon, and Texas, where the Company follows state requirements) to determine an applicant's eligibility for Lifeline and to ensure that neither the applicant nor anyone in the applicant's household is already receiving a Lifeline service. Boomerang will use that same process for applicants residing in the federal default states that are the subject of this Amended Petition. Every applicant will be required to complete the standardized Lifeline application in the National Verifier environment, which covers the necessary information collection, disclosures, and certifications required by the Lifeline rules.⁴¹ Boomerang will not provide a customer with a handset (if the customer qualifies for a free handset) or otherwise activate Lifeline service until the applicant completes the application in the National Verifier and receives eligibility approval.⁴² Boomerang will also comply with the Commission's rules governing annual re-certification of eligibility and de-enrollment.⁴³

Boomerang will have direct contact with all applicants for Boomerang's Lifeline service, either in person through its employees, agents, or representatives, or via the telephone, mail, or online. Boomerang will not enroll customers at retail locations where the Company does not have an agency agreement with the retailer. In addition, in accordance with section 54.406 of the Commission's rules, Boomerang enrollment representatives are required to register in the Universal Service Administrative Company's Representative Accountability Database, and Boomerang does not offer or provide enrollment representatives or their direct supervisors any

⁴¹ 47 C.F.R. § 54.410(d).

⁴² 47 C.F.R. § 54.410(a).

⁴³ 47 C.F.R. §§ 54.405(e), 54.410(f).

commission compensation based on the number of consumers who apply for or are enrolled in the Lifeline program with the Company.⁴⁴

Boomerang will also comply with the Commission's rules regarding reimbursement for providing Lifeline service. Boomerang will not seek Lifeline reimbursement for a qualifying low-income consumer until that subscriber activates his or her Lifeline service. In addition, the Company will not seek Lifeline reimbursement for those subscribers who receive Lifeline service at no cost unless they "use" the service as defined by the Commission's rules and remain eligible to be enrolled in the program.⁴⁵

IV. Designating Boomerang as an ETC in the Federal Jurisdiction States Will Promote the Public Interest

Section 54.202(b) of the Commission's rules mandates that ETC designations must serve the public interest. In considering whether any designation is in the public interest, "the Commission shall consider the benefits of increased consumer choice, and the unique advantages and disadvantages of the applicant's service offering."⁴⁶ First, Boomerang's service offers increased consumer choice and has unique advantages for consumers in the geographical areas served. For example, Boomerang's service provides a low-cost, reliable alternative to traditional rate plans. It allows customers to rely upon the extensive networks of its underlying carriers, while taking advantage of Boomerang's additional features and services provided by its secure facilities.

In addition, Boomerang's service meets the goals of the Act. For example, the Act aimed to "secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies" to all American

⁴⁴ 47 C.F.R. § 54.406(b).

⁴⁵ 47 C.F.R. §§ 54.405(e)(3), 54.407.

⁴⁶ 47 C.F.R. § 54.202(b).

consumers.⁴⁷ Conferring ETC status upon Boomerang will provide consumers with higher quality services at lower prices in the designated service areas. Boomerang's plans incorporate features specifically designed for lower income individuals in both rural and urban areas.

Further, Boomerang's prepaid plans allow customers, who might not otherwise have access to expensive post-paid plans, to subscribe to voice and data services without the hurdle of a credit check or the commitment of a contract. And, the service allows customers to purchase additional minutes or data on an "as needed" basis.

Designation of Boomerang as an ETC also meets the Commission's stated goals for promoting competition and increasing customer choice. The Commission has determined that "designation of competitive ETCs promotes competition and benefits consumers in rural and high- cost areas by increasing customer choice, innovative services, and new technologies."⁴⁸

Boomerang adds competition to the marketplace with the addition of its affordable innovative services. Further, its presence as a competitor to ILECs will incentivize incumbent carriers to improve their services and expand their networks in order to remain competitive.

Finally, because Boomerang will remain compliant with each of its ETC responsibilities, the Commission should designate it as an ETC in the proposed service areas.

V. Anti-Drug Abuse Certification

No party to this Petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C. § 862.

⁴⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56.

⁴⁸ See *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, CC Docket No. 96-45, Memorandum Opinion and Order, DA 00-2896, ¶ 17 (2000).

VI. Conclusion

As Boomerang has previously demonstrated, the Commission's grant of this Amended Petition designating Boomerang as a Lifeline-only ETC would promote the public interest. Boomerang requests that the Commission grant this Amended Petition on an expedited basis so that Boomerang may begin providing the benefits of Lifeline service to qualifying low-income consumers in the Federal Jurisdiction States.

Respectfully submitted,



John J. Heitmann
Joshua T. Guyan
Debra McGuire Mercer
Belen Crisp
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007
(202) 342-8400

Counsel for Boomerang Wireless, LLC

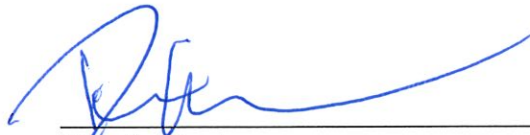
September 17, 2021

DECLARATION

I, Dennis Henderson, Co-Founder and CEO of Boomerang Wireless, LLC do hereby affirm under penalty of perjury that I have reviewed all of the factual assertions set forth in the foregoing petition for ETC status and that all such statements made therein are true and correct to the best of my knowledge, information and belief.

To the best of my knowledge, no party to this Petition, nor any of their officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) as specified in Section 1.2002(b) of the Commission's rules are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

Executed on September 16, 2021



Dennis Henderson
Co-Founder and CEO
Boomerang Wireless, LLC

EXHIBIT A



Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007
Tel: (202) 342-8400
Fax: (202) 342-8451

April 30, 2021

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

**Re: Boomerang Wireless, LLC d/b/a enTouch Wireless Amended Compliance Plan, WC
Docket Nos. 09-197 and 11-42**

Dear Ms. Dortch:

On March 1, 2012, Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang or the Company) submitted its Compliance Plan for wireless Lifeline services, outlining the measures it would take to implement the conditions imposed by the Federal Communications Commission (FCC or Commission) in its 2012 Lifeline Reform Order.¹ Following revisions, most recently on July 26, 2012, the Wireline Competition Bureau (Bureau) approved Boomerang's Compliance Plan on August 8, 2012.² Boomerang filed notices of non-material change to its Compliance Plan with the Commission on September 7, 2012, and November 7, 2013.³

Boomerang now seeks expedited approval of the enclosed Amended Compliance Plan, which has been updated to: (1) reflect a proposed change in ownership of the Company; and (2) update the information provided in the approved Compliance Plan due to Commission rule changes and the passage of time.

¹ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, and WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012).

² *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless and Tag Mobile*, WC Docket Nos. 09-197 and 11-42, Public Notice, DA 12-1286 (rel. August 8, 2012).

³ Letter from John J. Heitmann, Counsel to Boomerang Wireless, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (Sept. 7, 2012); Letter from John J. Heitmann, Counsel to Boomerang Wireless, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (Nov. 7, 2013).

Marlene H. Dortch
April 30, 2021

Change in Ownership

Boomerang is currently majority-owned (51%) by HH Ventures, LLC (HH Ventures), an Iowa limited liability company, and minority-owned (49%) by ViaOne Acquisition Company LLC (ViaOne), a Delaware limited liability company. Prior to December 18, 2020, Boomerang was wholly owned by HH Ventures. On December 18, 2020, HH Ventures and ViaOne entered into a Membership Interest Purchase Agreement (Agreement) wherein ViaOne agreed to purchase Boomerang from HH Ventures. Under the Agreement, ViaOne initially acquired 49% of the Membership Interests owned by HH Ventures and it will acquire the remaining 51% of Membership Interests upon receiving necessary regulatory approvals, including approval of this revised Compliance Plan. Following the proposed change in Boomerang's ownership, the Company's corporate and trade names and identifiers will remain unchanged. The transaction will not result in any loss or impairment of service for any customer, and customers will continue to receive their existing services at the same or better rates, terms, and conditions currently in effect.

Updates Due to Rule Changes and Passage of Time

Boomerang also files this revised Compliance Plan to update its policies and practices to account for changes in the Commission's Lifeline rules, orders, and guidance and due to the passage of time. This includes full implementation of the Lifeline National Verifier, use of standardized application and recertification forms, and new requirements for Lifeline enrollment representatives.

Respectfully submitted,



John J. Heitmann
Joshua Guyan
Chris M. Laughlin
Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
(202) 342-8400
jheitmann@kelleydrye.com

Enclosure

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Telecommunications Carriers Eligible to)	WC Docket No. 09-197
Receive Universal Service Support)	
)	
Lifeline and Link Up Reform and)	WC Docket No. 11-42
Modernization)	
)	
Boomerang Wireless, LLC)	

BOOMERANG WIRELESS, LLC REVISED COMPLIANCE PLAN

Boomerang Wireless, LLC d/b/a enTouch Wireless (Boomerang or the Company), by its counsel, hereby respectfully submits and requests expeditious approval of revisions to its approved Compliance Plan, outlining the measures it will take to comply with the Lifeline Program rules, orders, and guidance issued by the Federal Communications Commission (Commission or FCC).¹

¹ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, and WC Docket No. 12-23, Report and Order and Further Notice Of Proposed Rulemaking, FCC 12-11 (rel. Feb. 6, 2012) (2012 Lifeline Reform Order); *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 09-197, and 10-90, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, FCC 15-71 (rel. June 22, 2015) (2015 Lifeline Order); *Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund*, WC Docket Nos. 11-42, 00-197, and 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (2016 Lifeline Modernization Order); *Bridging the Digital Divide for Low-Income Consumers Lifeline and Link Up Reform and Modernization Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, and 09-197, Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry, FCC 17-155 (rel. Dec. 1, 2017) (2017 Lifeline Digital Divide Order); *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support*, WC Docket Nos. 17-287, 11-42, and 09-197, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and

On July 26, 2012, Boomerang filed a Compliance Plan for its wireless service.² Boomerang's Compliance Plan was approved by the Wireline Competition Bureau (Bureau) on August 8, 2012.³ Boomerang filed notices of non-material change to its Compliance Plan with the FCC on September 7, 2012, and November 7, 2013.⁴ Boomerang files this revised Compliance Plan to reflect a proposed change in ownership of the Company and to update its policies and practices to account for changes in the Commission's Lifeline rules, orders, and guidance and due to the passage of time. Boomerang is a Lifeline eligible telecommunications carrier (ETC) in 34 states and territories and is seeking designation from the Commission as an ETC in the federal jurisdiction states for the limited purpose of offering service supported by the Lifeline program.⁵

Boomerang has availed itself of the grant of forbearance from the "own-facilities" requirement contained in section 214(e)(1)(A) of the Communications Act of 1934, as amended

Further Notice of Proposed Rulemaking, FCC 19-111 (rel. Nov. 14, 2019) (Fifth Report and Order).

² See *Revised Compliance Plan of Boomerang Wireless, LLC*, WC Docket Nos. 09-197 and 11-42 (filed Jul. 26, 2012).

³ *Wireline Competition Bureau Approves the Compliance Plans of Birch Communications, Boomerang Wireless, IM Telecom, Q Link Wireless and Tag Mobile*, WC Docket Nos. 09-197 and 11-42, Public Notice, DA 12-1286 (August 8, 2012).

⁴ Letter from John J. Heitmann, Counsel to Boomerang Wireless, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (Sept. 7, 2012); Letter from John J. Heitmann, Counsel to Boomerang Wireless, LLC, to Marlene H. Dortch, Secretary, FCC, WC Docket Nos. 11-42 and 09-197 (Nov. 7, 2013).

⁵ Boomerang currently has petition for designation as a Lifeline-only ETC in the federal jurisdiction states pending before the Commission. See *Amended Petition of Boomerang Wireless, LLC for Designation as an Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Maine, New Hampshire, New York, North Carolina, Tennessee, and Virginia*, WC Docket No. 09-197 (filed May 2, 2014) (Petition). Boomerang also seeks authorization to provide Lifeline-only service to residents of Tribal lands in those states. Boomerang intends to file an updated version of this petition and respectfully requests to incorporate the commitments made herein into the pending Petition and updated petition when it is filed.

(Communications Act).⁶ In accordance with the procedures established in the 2012 Lifeline Reform Order⁷ and clarified in the Compliance Plan Public Notice issued by the Wireline Competition Bureau on February 29, 2012,⁸ this Compliance Plan outlines the measures Boomerang has implemented to achieve full compliance with all pertinent conditions set forth in the Commission's Lifeline rules, orders, and guidance, including the provision of 911 services to ensure that Lifeline customers can access the same safety and welfare services that are critical for all Americans.⁹

Boomerang is committed to guarding against waste, fraud, and abuse in the Lifeline program. This Compliance Plan details the policies, procedures, and training programs the Company has implemented to achieve this objective. Specifically, this Compliance Plan describes in detail: (1) the measures Boomerang takes to implement the conditions contained in the Lifeline program rules, orders, and guidance, including the procedures the Company follows to enroll eligible Tribal and non-Tribal subscribers into the Lifeline program, the process by which the Company submits for reimbursement from the Low Income Fund for those subscribers, and how

⁶ See 47 U.S.C. § 214(e)(1)(A); 2012 Lifeline Reform Order, ¶ 368-381. Although Boomerang qualifies for and avails itself of the Commission's grant of forbearance from the facilities requirement in section 214(e)(1)(A) for purposes of the federal Lifeline program, the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state for purposes of state universal service funding under state program rules and requirements. Boomerang will follow the requirements of the Commission's Lifeline rules and this Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low Income Fund, including in any state where the public utilities commission determines that Boomerang provides service using its own facilities for purposes of a state universal service program.

⁷ See 2012 Lifeline Reform Order, ¶ 379.

⁸ See *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, WC Docket Nos. 09-197 and 11-42, Public Notice, DA 12-314 (WCB rel. Feb. 29, 2012) (Compliance Plan Public Notice).

⁹ The compliance practices described herein are subject to change consistent with program rules and as those rules may be amended, replaced, or adopted from time to time.

the Company conducts initial and ongoing certifications; and (2) how Boomerang offers and markets its Lifeline services, the geographic areas in which it offers Lifeline services, and a detailed description of the Company's Lifeline service plan offerings.

COMPANY INFORMATION

I. Change in Ownership of Boomerang

Boomerang is currently majority-owned (51%) by HH Ventures, LLC (HH Ventures), an Iowa limited liability company, and minority-owned (49%) by ViaOne Acquisition Company LLC (ViaOne), a Delaware limited liability company. Prior to December 18, 2020, Boomerang was wholly owned by HH Ventures. On December 18, 2020, HH Ventures and ViaOne entered into a Membership Interest Purchase Agreement (Agreement) wherein ViaOne agreed to purchase Boomerang from HH Ventures. Under the Agreement, ViaOne initially acquired 49% of the Membership Interests owned by HH Ventures¹⁰ and it will acquire the remaining 51% of Membership Interests upon receiving necessary regulatory approvals, including approval of this revised Compliance Plan.¹¹ Following the proposed change in Boomerang's ownership, the Company's corporate and trade names and identifiers will remain unchanged. The transaction will not result in any loss or impairment of service for any customer, and customers will continue to receive their existing services at the same or better rates, terms, and conditions currently in effect.

II. Financial and Technical Capabilities

Boomerang has the financial and technical capabilities to provide the supported services and comply with the Commission's Lifeline service rules.¹² Among the factors the Commission will consider are: (a) a carrier's prior offering of service to non-Lifeline subscribers, (b) the length

¹⁰ The current structure, ownership, and brands is provided as **Exhibit A**.

¹¹ The post-merger structure, ownership, and brands is provided as **Exhibit B**.

¹² See Compliance Plan Public Notice at 3; 47 C.F.R. § 54.202(a)(4).

of time the carrier has been in business, (c) whether the carrier relies exclusively on Lifeline reimbursements to operate, (d) whether the carrier receives revenues from other sources, and (e) whether the carrier has been the subject of an enforcement action or ETC revocation proceeding in any state.¹³

Boomerang is a wireless Lifeline-only ETC with such designation from 34 states and territories.¹⁴ The Company has been successfully providing Lifeline-supported service since October 9, 2012 and service to non-Lifeline customers itself or through affiliates since 2008. Boomerang has an established customer base, serving over 47,000 Lifeline customers across the 34 states where it operates. The Company has ETC applications pending in Massachusetts, New Jersey, and Vermont. In addition, the Company plans to file with the Commission a revised petition for ETC designation in ten federal jurisdiction states.¹⁵ Boomerang has not sought High Cost support in any of the states for which it has been designated an ETC, nor has it sought High Cost support in any pending ETC application.

Boomerang has considerable expertise complying with the requirements of the federal Lifeline program and marketing to the low-income consumer sector. Boomerang has direct control over the databases, systems, and processes controlling the customer records, usage records, and reporting, which provides the Company with direct ability to adhere to Lifeline requirements.

¹³ 2012 Lifeline Reform Order, ¶ 388.

¹⁴ Those thirty-four states are: Arkansas, Arizona, California, Colorado, Georgia, Hawaii, Iowa, Idaho, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Dakota, Nebraska, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Washington, Wisconsin, West Virginia, Wyoming, and Puerto Rico.

¹⁵ Alabama, Connecticut, Delaware, Florida, Maine, New Hampshire, North Carolina, Tennessee, Virginia, and the District of Columbia.

Boomerang is currently transitioning to utilizing ViaOne as its MVNE. ViaOne's core management team currently includes five senior executives and the company employs 55 full time employees. ViaOne also intends to continue its employment relationships with key Boomerang employees that have allowed the Company to successfully provide Lifeline service over its nearly nine years of operation. ViaOne is a cash-flow positive entity with diverse business operations. ViaOne currently is the sole owner or majority owner of seven subsidiaries: Alchemy Insurance Agency, Assist Wireless, Cali Distributors, CTC Outreach Marketing, Good Gaming, Inc., PayGo Distributors, and V1 Fiber. ViaOne, itself and through its subsidiaries, provides integrated communications services as an MVNE, including MVNO enablement, cellular carrier access aggregation, voice/text/data services, marketing services, deployment of mobile services to customers, and operational support.

On December 6, 2020, Boomerang entered into a distribution agreement with ViaOne subsidiary Cali Distribution, LLC (Cali) to distribute Lifeline services and enroll Lifeline subscribers, subject to Boomerang's oversight. Once the acquisition is complete, Boomerang will also benefit from the services of PayGo Distributors, which provides outreach, sales, and marketing services for Lifeline providers. ViaOne also has significant experience providing services that comply with the requirements of the Lifeline program through its subsidiary, Assist Wireless, a wireless Lifeline-only ETC designated in the States of Arkansas, Maryland, Missouri, and Oklahoma. Assist Wireless has been successfully providing Lifeline-supported service since January 2011 and has an established customer base, serving nearly 78,000 Lifeline customers. Using ViaOne's established MVNE services, Boomerang will continue to have the ability to reach eligible consumers throughout the country.

Boomerang is financially stable and fully capable of honoring its service obligations to customers, as well as meeting its federal and state regulatory obligations. The Company has not (and does not) rely exclusively on revenues from its provision of Lifeline services for its operating revenues. The Company also has access to additional capital resources from its parent and affiliate companies, its members, and its individual investors. ViaOne also derives significant revenues from its diverse subsidiary operations, including non-Lifeline services, which will benefit Boomerang following final consummation of the purchase. The Company's financial resources position the Company to expand its operations to serve currently unserved/underserved eligible low-income and Tribal consumers and increase competition.

Boomerang resells the services of T-Mobile/Sprint¹⁶ and Verizon to provide Lifeline services. The multi-carrier wireless network platform provides robust wireless service coverage across the entire ETC footprint. Boomerang, and both its current and future parent and affiliate companies, have direct, in-depth experience providing voice and data products to subscribers using its carrier relationships.

Boomerang has not been subject to any enforcement actions related to the Low Income Fund or ETC revocation proceedings in any state.

ACCESS TO 911/E911 SERVICES

In the 2012 Lifeline Reform Order, the Commission stated that forbearance from the “own-facilities” requirement is conditioned on a carrier seeking limited ETC designation: (1) “providing its Lifeline subscribers with 911 and E911 access, regardless of activation status and availability of minutes;” and (2) “providing its Lifeline subscribers with E911-compliant handsets and

¹⁶ Boomerang has MVNO agreements for both the T-Mobile and Sprint networks. At this time, the merged T-Mobile/Sprint entity has advised that Sprint network service will discontinue in approximately January 2022.

replacing, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services.”¹⁷ Wireless resellers also have an independent obligation to provide access to basic and E911 service, to the extent the local government in its service area has implemented 911 or E911 systems.¹⁸

The Commission and consumers are hereby assured that all Boomerang Lifeline customers have available access to emergency calling services at the time that Lifeline service is initiated and that such 911 and E911 access are available from Boomerang handsets regardless of the activation status and availability of minutes. Further, Boomerang ensures that all handsets used in connection with the Company’s Lifeline service offering are E911-compliant. Boomerang is not aware of any existing Boomerang customer that does not have an E911-compliant handset, but if that should occur, the Company will replace it with a 911/E911 compliant handset at no charge to the customer. Any new customer who qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911 compliant handset as well. Boomerang provides 911 and E911 services to the extent these services have been implemented by local governments in the service area and deployed by Boomerang’s underlying facilities-based wireless carriers. Boomerang’s underlying carriers route 911 calls from the Company’s customers and provide the same functionality for such calls as they do for 911 calls from their own retail customers.

¹⁷ 2012 Lifeline Reform Order, ¶ 373.

¹⁸ See 47 C.F.R. § 54.101(a).

COMPLIANCE PLAN

I. Procedures for Enrolling and Maintaining Lifeline Subscribers¹⁹

A. Policy

This Compliance Plan describes the specific measures that Boomerang has implemented to comply with the Commission's Lifeline rules and orders, including the uniform eligibility criteria established in section 54.409 of the Commission's rules,²⁰ as well as any additional certification and verification requirements for Lifeline eligibility in states where the Company is designated as an ETC. In accordance with these provisions, all subscribers will be required to demonstrate eligibility, as determined by the National Lifeline Eligibility Verifier (National Verifier),²¹ based on: (1) household income at or below 135% of the Federal Poverty Guidelines for a household of that size; or (2) the household's participation in one of the federal assistance programs listed in sections 54.409(a)(2) or 54.409(b) of the Commission's rules.²² In addition, through the certification requirements described below and use of the National Lifeline Accountability Database (NLAD), the Company will confirm that the subscriber is not already receiving a Lifeline service and no one else in the subscriber's household is subscribed to a Lifeline service. Boomerang shares the Commission's concerns about the potential for waste, fraud, and abuse of the Lifeline program and is thus committed to the safeguards stated herein.

¹⁹ See Compliance Plan Public Notice at 3.

²⁰ 47 C.F.R. § 54.409.

²¹ The National Verifier is fully operational, except in NLAD opt-out states where it is undergoing a modified launch. See *Wireline Competition Bureau Announces the Next National Lifeline Eligibility Verifier Launch in Three States*, WC Docket No. 11-42, Public Notice, DA 19-1290 (rel. Dec. 18, 2019); *Wireline Competition Bureau Announces the Launch of the National Lifeline Eligibility Verifier in California*, WC Docket No. 11-42, Public Notice, DA 20-1372 (rel. Nov. 18, 2020). In these states, Boomerang will rely upon state administrators for eligibility determination.

²² See 47 C.F.R. §§ 54.409(a)(1)-(2); 47 C.F.R. § 54.409(b).

B. Eligibility Determination

Boomerang relies on the National Verifier and NLAD (except in California, Oregon, and Texas, where the Company follows state requirements) to determine an applicant's eligibility for Lifeline service. Customers who have received eligibility approval from the National Verifier can apply for enrollment in Boomerang's Lifeline service using multiple methods, including in-person at events or retail locations, over the phone, online using an electronic application, or through the mail using a paper application. Applications are processed using CGM, LLC's Lifeline enrollment application—used by more than a dozen other ETCs—which works in conjunction with the National Verifier and NLAD. Procedurally, the CGM application queries the National Verifier to determine whether an applicant has been approved to receive Lifeline services based on the applicant's program- or income-based eligibility. If the applicant has not applied or received approval from the National Verifier, Boomerang directs the applicant to the National Verifier portal for an eligibility determination. The CGM application does not permit enrollment without indication of approval from the National Verifier. Boomerang does not collect, review, or maintain eligibility documentation, other than in NLAD-opt out states (California, Texas and Oregon). The CGM application also completes the steps necessary to prevent duplicate Lifeline benefits from being awarded to the same person or household by querying the NLAD during the application process.²³ Additionally, the CGM application currently performs additional checks, such as a check of Boomerang's subscriber database to identify and prevent intra-company duplicate enrollments. Further, the CGM application currently assesses whether an applicant is seeking

²³ 47 C.F.R. §§ 54.404(b)(1), 54.409(c); 2012 Lifeline Reform Order, ¶ 203. In states that have opted out of the NLAD, Boomerang will follow the duplicates detection process required by the state.

service in Boomerang's designated service territory and underlying carrier coverage area in the state. Upon verification of eligibility, the CGM application conducts the NLAD enrollment.²⁴

If the NLAD or subscriber database queries indicate that enrollment would result in a duplicate benefit, Boomerang takes appropriate steps to address the result. If the queries show that the applicant is currently receiving Lifeline service from another ETC, the Company asks if the applicant is receiving Lifeline services from another Lifeline provider and explains that the applicant cannot have multiple Lifeline benefits with the same or different service providers or apply the Lifeline benefit to more than one device, whether a wireless or wireline phone. If the applicant wishes to transfer the Lifeline benefit to Boomerang, the Company obtains consent from the applicant and acknowledgement that doing so will result in loss of Lifeline service with their former Lifeline service provider prior to initiating a benefit transfer. If the queries indicate that the applicant shares an address with one or more existing Lifeline subscribers, Boomerang directs the applicant to the National Verifier where the applicant can complete the Lifeline Program Household Worksheet, which contains the necessary disclosures and certifications.

C. Subscriber Disclosures and Certifications

Except in the NLAD opt-out states, every applicant is required to complete the standardized Lifeline application in the National Verifier environment, which covers the necessary information collection, disclosures, and certifications required by the Lifeline rules.²⁵ Boomerang will not provide a customer with a handset or otherwise activate Lifeline service until the applicant

²⁴ The Company transmits to the NLAD the information required for each new and existing Lifeline subscriber. *See* 2012 Lifeline Reform Order, ¶¶ 189-195; 47 C.F.R. § 54.404(b)(6). Further, the Company updates each subscriber's information in the NLAD within ten business days of any change, except for de-enrollment, which is transmitted within one business day. *See* 47 C.F.R. § 54.404(b)(8),(10).

²⁵ *See* 47 C.F.R. § 54.410(d).

completes the application in the National Verifier and receives eligibility approval.²⁶ Separately, Boomerang, collects any additional consents, state certifications,²⁷ and information necessary for Boomerang to be able to serve the customer through the CGM application.

In addition to the verification and certification processes described above, Boomerang may take additional steps to advise new and potential applicants about eligibility requirements. Specifically, Boomerang personnel may explain and emphasize the one-Lifeline-benefit-per-household limitation and the duplicate Lifeline benefit prohibition, advise about the non-usage rule, describe the annual recertification requirements, and reiterate that Lifeline is a government benefit and that providing false information could subject the applicant to consequences. This information may also be presented to new and potential applicants on Boomerang's printed materials, marketing, and website.

As part of the application process, Boomerang requires each applicant to authorize the Company to access any records required to verify the applicant's statements related to the applicant's request for Lifeline. The applicant also has to authorize the Company to release any records required for the administration of the Company Lifeline credit program, including to USAC to be used in a Lifeline program database.²⁸ The Company complies with all applicable state and federal regulations concerning the protection of subscriber customer proprietary network information (CPNI) and eligibility documentation. Boomerang accepts electronic signatures that

²⁶ 47 C.F.R. § 54.410(a).

²⁷ 2012 Lifeline Reform Order, ¶ 61.

²⁸ See Section 54.404(b)(9). The application/certification form also describes the information that will be transmitted, that the information is being transmitted to USAC to ensure the proper administration of the Lifeline program, and that failure to provide consent will result in the applicant being denied the Lifeline benefit. See *id.*

meet the requirements of the E-SIGN Act²⁹ and any applicable state laws, including signature verification via IVR systems.

D. Oversight and Training of Employees, Agents, and Representatives

Except in states in which applicants are enrolled through a designated state administrator, the Company has direct contact with all applicants for Boomerang's Lifeline service, either in person through its employees, agents, or representatives, or via the telephone, mail, or online. Boomerang does not enroll customers at retail locations where the Company does not have an agency agreement with the retailer. In addition, in accordance with section 54.406 of the Commission's rules, Boomerang enrollment representatives are required to register in USAC's Representative Accountability Database (RAD), and Boomerang does not offer or provide enrollment representatives or their direct supervisors any commission compensation based on the number of consumers who apply for or are enrolled in the Lifeline program with the Company.³⁰

To track enrollments and ensure that customer enrollment information is safeguarded against potential identity fraud, Boomerang enrollment representatives are currently required to register with the Company and log in to the CGM software with a unique username and password to enroll customers. The registration process requires representatives to provide their address and sign an agreement to follow all Lifeline program rules and requirements, including with respect to assisting an applicant with Lifeline enrollment and maintaining the confidentiality of personal information. The unique login information permits Boomerang to track activity through CGM by agent so that the Company can monitor accounts and agents for irregularities (e.g., excessive activity or improper behavior) and take corrective action if necessary.

²⁹ 47 C.F.R. § 54.419; *see also* Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. §§ 7001-7006.

³⁰ 47 C.F.R. § 54.406(b).

Boomerang provides or requires Lifeline-specific training for all personnel, whether employees, direct contractors, or representatives, who interact with new or prospective customers regarding the Commission's Lifeline eligibility and certification rules and the Company's practices and policies designed to implement those rules. All personnel receive an online training, which requires review of the company's policies and procedures, and submit a Standard of Conduct form before being authorized to sign up applicants for Lifeline service with Boomerang. The training provides an explanation of the creation and purpose of the Lifeline program, the source of funds to provide access to qualified low-income consumers, how the National Verifier makes program- and income-based eligibility determinations, and how the CGM application uses the NLAD to prevent duplicate Lifeline benefits from being awarded to the same person or household. Personnel are also trained on how to explain and answer questions about the eligibility criteria, one-per-household limitation, and duplicate benefit prohibition.³¹

Personnel are given instruction in how to assist Lifeline applicants with completing Lifeline applications and how to input applications into CGM. Additionally, personnel learn how to advise applicants when the National Verifier or NLAD returns a response that an applicant is ineligible, including informing applicants of the reason for the rejection, directing applicants to the National Verifier to complete any additional eligibility determination steps, and potentially assisting applicants with transferring Lifeline benefits or understanding the Universal Household Worksheet.

Personnel are instructed that the company has zero tolerance for waste, fraud or abuse, and that they should notify the compliance team if they suspect that anyone might be providing false

³¹ Pursuant to restrictions in California labor and employment law, Boomerang makes such training materials available, but does not directly train independent contractors.

information or attempting to obtain a duplicate Lifeline benefit. In addition, if personnel have any questions or concerns regarding eligibility and enrollment, the Company strongly encourages them to bring such questions and concerns to the Boomerang compliance team so that they can be researched and resolved in accordance with the Commission's Lifeline rules and regulations. Boomerang provides personnel with refresher training, including to inform them of changes to Lifeline program rules and regulations, including eligibility requirements. Personnel will be disciplined, up to and including termination, for failing to comply with Lifeline rules and regulations. Boomerang also provides comprehensive training to its internal compliance personnel.

E. Activation and Usage of Lifeline Service

Once a prospective customer is successfully enrolled in Boomerang's Lifeline service, the Company provides the customer with a welcome packet that has instructions for activating the service and may provide a handset. Customers can activate the service by using any of the means described in section 54.407(c)(2) of the Commission's rules for establishing ongoing usage of the Lifeline service or another means described by Boomerang.³² Aside from customers from whom Boomerang collects a monthly fee, the Company will not seek Lifeline reimbursement for a qualifying low-income consumer until that subscriber activates the service.³³

Except for subscribers from whom Boomerang collects a monthly fee, the Company will only maintain Lifeline-supported service for subscribers who actually use the service, and it will only seek reimbursement from the Lifeline fund for subscribers who remain eligible to be enrolled in the program. Under the Company's non-usage policy, "usage" is established based on the

³² 47 C.F.R. § 54.407(c)(2).

³³ See 2012 Lifeline Reform Order, ¶ 257; 47 C.F.R. § 54.407(c)(1).

activities listed in section 54.407(c)(2) of the Commission's rules.³⁴ If, after a subscriber has activated the Lifeline service, the subscriber has not used the Company's Lifeline service within the last thirty (30) days,³⁵ Boomerang will discontinue seeking Lifeline reimbursements for that subscriber³⁶ and will provide the subscriber with notice using clear, easily understood language, that if the subscriber does not use the service within fifteen (15) days, the service will be terminated and the subscriber will be de-enrolled from the Company's Lifeline service.³⁷ If the subscriber has not used the service within the additional 15-day cure period, Boomerang de-enrolls the subscriber from the Lifeline program effective on the 46th day following 45-days of non-usage. Boomerang will update the NLAD within one (1) business day of de-enrolling a subscriber for non-usage³⁸ and will submit a non-usage de-enrollment report annually to the Commission with the number of subscribers de-enrolled for non-usage by month.³⁹

F. Annual Re-certification

The annual re-certification process is administered by the National Verifier. Boomerang advises customers that they may need to re-certify their eligibility annually if the National Verifier or state Lifeline administrator does not automatically do so in accordance with section 54.410(f) of the Commission's rules. If the National Verifier cannot re-certify a subscriber's program- or

³⁴ Subscribers can "use" the service by: (1) completing an outbound call or usage of data; (2) purchasing minutes from Boomerang to add to the subscriber's plan; (3) answering an incoming call from a party other than Boomerang or its agent or representative; (4) responding to a direct contact from Boomerang and confirming that the subscriber wants to continue receiving the service; or (5) sending a text message. 47 C.F.R. § 54.407(c)(2).

³⁵ 47 C.F.R. § 54.407(c)(2).

³⁶ Boomerang will seek reimbursement if the subscriber "cures" the non-usage.

³⁷ 47 C.F.R. § 54.405(e)(3).

³⁸ 47 C.F.R. § 54.404(b)(10).

³⁹ 47 C.F.R. § 54.405(e)(3).

income-based eligibility for Lifeline during the annual re-certification, the National Verifier will request a signed certification from the subscriber on a form that meets the certification requirements in section 54.410(d) of the Commission's rules.⁴⁰ The Company may notify the subscriber in writing, using clear, easily understood language, that failure to respond to the re-certification request will trigger de-enrollment.⁴¹ USAC de-enrolls any Lifeline subscribers who do not re-certify through the National Verifier.⁴²

G. De-Enrollment for Ineligibility or by Request

Boomerang will de-enroll a subscriber within five (5) business days if it receives notification from USAC that the subscriber should be de-enrolled because the subscriber is receiving Lifeline service from more than one ETC or that more than one member of the subscriber's household is receiving Lifeline service.⁴³ Additionally, if the Company has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, Boomerang notifies the subscriber of impending termination in writing, complies with any state dispute resolution procedures applicable to Lifeline termination, and gives the subscriber thirty (30) days to demonstrate continued eligibility.⁴⁴ A demonstration of eligibility must comply with the annual re-certification procedures found in section 54.410(f) of the Commission's rules,

⁴⁰ The FCC has adopted a standardized recertification form that is used by USAC. *See Annual Recertification Form*, FCC Form 5630, https://www.usac.org/wp-content/uploads/lifeline/documents/forms/LI_Recertification_UniversalForms.pdf.

⁴¹ *See* 2012 Lifeline Reform Order, ¶ 145 (“ETCs and states may also choose to notify subscribers about the re-certification requirements in their Lifeline outreach materials. By taking these actions, ETCs and states will ensure that consumers are aware of the importance of responding to re-certification efforts, and that they are not inadvertently disconnected due to a lack of understanding of program rules.”)

⁴² 47 C.F.R. § 54.405(e)(4).

⁴³ 47 C.F.R. § 54.405(e)(2).

⁴⁴ *See* 2012 Lifeline Reform Order, ¶ 143; 47 C.F.R. § 54.405(e)(1).

including the submission of a completed and signed re-certification form. If a Boomerang Lifeline customer who contacted the Company expresses that the customer is not eligible for Lifeline or requests to de-enroll for any reason, the Company will de-enroll the customer within two (2) business days. Customers can make this request by calling the Company's customer service number and are not be required to submit any documents.

H. Marketing of Lifeline Service Offering⁴⁵

Boomerang's marketing efforts are focused on finding and serving eligible consumers using distribution models designed to reach the target population on a broad geographic basis. Creating a trusted brand and service through community outreach is a primary methodology for educating and soliciting customers. Boomerang advertises the availability and prices of its Lifeline services through a variety of mediums, including online advertising, direct marketing campaigns, print advertising, event-based distribution, partnering with local community groups, pamphlet distribution, and meetings with government agencies. Boomerang's current business model and plans for providing Lifeline service are based on reaching about 85% of its subscribers in person, through event marketing targeting currently underserved populations. While most of Boomerang's outreach succeeds via direct contact with consumers, potential subscribers will also be able to avail themselves of a toll-free number or website to obtain enrollment information. Boomerang's online outreach uses search engine optimization and targeted ad placement to reach eligible low-income consumers. Boomerang also has a long history with retail distribution—the Company currently offers its services through retail stores and agents who understand the underserved consumers in communities Boomerang serves as an ETC.

⁴⁵ See Compliance Plan Public Notice at 3.

Boomerang offers its Lifeline service in the states where it is designated as an ETC and throughout the coverage area of its underlying carriers, T-Mobile/Sprint and Verizon. The company uses these network relationships to ensure a good experience for its Lifeline customers.

Boomerang's Lifeline offerings include a range of service plan options for Lifeline subscribers. Among its Lifeline offerings is a 1,000 minute, 500 text and 100 MB plan at no cost to the end user and an unlimited voice, unlimited text, and 4.5 GB of data plan for a co-pay of \$25, which meets the mobile broadband minimum service standard (MSS) of 4.5 GB, pursuant to the Commission's most recent waiver of the MSS established in Section 54.408 of the Commission's rules.⁴⁶ The Company's Enhanced Lifeline plan of unlimited voice and text and 4.5 GB of data is available to Tribal customers that reside on Federally Recognized Tribal lands at no cost. The Company commits to modify its service offerings to meet or exceed the MSS as they change, in accordance with the Commission's rules or other Commission action.⁴⁷ Boomerang's Lifeline offerings are detailed in Exhibit C. Additional information regarding the Company's plans, rates, and services can be found on its website: www.entouchwireless.com.

In addition to its voice and data services, the following features are provided at no charge: Caller ID, Call Waiting, Call Forwarding, 3-Way Calling, and Voicemail. Boomerang's Lifeline plans may include a free handset, or a customer may choose to purchase a device or use a device owned by the customer. All plans will include domestic long-distance at no extra per minute charge. Calls to 911 emergency services and customer service by dialing 611 on customer handsets are always free, regardless of Lifeline service activation or availability of minutes.

⁴⁶ See *Lifeline and Link Up Reform and Modernization et. al.*, WC Docket No. 11-42 et. al., Order, DA 20-1358 (WCB Nov. 16, 2020).

⁴⁷ See 47 C.F.R. § 54.408; *Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, WC Docket No. 11-42, Public Notice, DA 20-820 (WCB rel. July 31, 2020).

Boomerang includes the following information regarding its Lifeline service on all marketing materials describing the service: (1) the offering is a Lifeline service; (2) Lifeline is a government assistance program; (3) the service is non-transferable; (4) only eligible consumers may enroll in the program; (5) the program is limited to one discount per household, consisting of either wireline or wireless service; (6) documentation is necessary for enrollment; and (7) the name under which Boomerang does business.⁴⁸ A sample of the Company's marketing materials can be found on its website: www.entouchwireless.com.⁴⁹

II. Reimbursements From the Fund

Boomerang seeks Lifeline reimbursement for providing Lifeline service based on the number of actual qualifying low-income customers listed in the NLAD that the Company serves as of the first of the month snapshot.⁵⁰ As part of each reimbursement request, Boomerang certifies its compliance with all of the Commission's Lifeline rules and, to the extent required, that it has obtained valid certifications from each of the subscribers for whom it is seeking reimbursement.⁵¹ Additionally, Boomerang has implemented measures for ongoing identification and removal of duplicate subscribers prior to certifying its Lifeline Claims System lists for reimbursement, including scans of its database to flag any duplicate subscriber information and a comparison of all subsidy requests to Boomerang's underlying carrier invoice to ensure that subsidies are

⁴⁸ See 2012 Lifeline Reform Order, ¶ 275; 47 C.F.R. § 54.405(c).

⁴⁹ Boomerang's marketing materials are subject to change and the Company will update the marketing materials whenever necessary to reflect changes in the Commission's Lifeline rules or state-specific conditions.

⁵⁰ 47 C.F.R. § 54.407(a).

⁵¹ See 2012 Lifeline Reform Order, ¶ 128; 47 C.F.R. § 54.407(d). Collecting certification and re-certification forms is now done by the National Verifier.

requested only for active lines. Further, the Company keeps accurate records as directed by USAC, in accordance with sections 54.407(e) and 54.417 of the Commission's rules.⁵²

As a provider of Lifeline services to residents of Tribal lands, Boomerang passes through the full Tribal support amount to qualifying residents of Tribal lands, and under no circumstances does it collect from the Lifeline Program more than the rate charged to Tribal subscribers.

III. Certifications, Reporting, and Cooperation with Regulators

Boomerang hereby certifies that it complies with the service requirements applicable to the support the Company receives.⁵³ Specifically, (i) the Company's Lifeline-supported services include broadband Internet access service (BIAS) and voice telephony service that provides voice grade access to the public switched network or its functional equivalent; (ii) the Company's Lifeline-supported services meet the MSS for BIAS and voice set forth in section 54.408 of the Commission's rules, as such standards are updated on an annual basis or otherwise modified by the Commission;⁵⁴ (iii) the Company's wireless service offerings provide its Lifeline customers with a set number of voice minutes that can be used for local and nationwide calling at no additional charge beyond the monthly plan rate; (iv) the Company will provide toll control for qualifying low-income consumers through its provision of a non-toll, any-distance domestic voice service;⁵⁵ (v) the handsets that Boomerang provides or makes available to Lifeline subscribers are

⁵² See 47 C.F.R. §§ 54.407(e), 54.417.

⁵³ 47 C.F.R. § 54.202(a)(1)(i).

⁵⁴ See 47 C.F.R. § 54.408(a)-(c).

⁵⁵ 47 C.F.R. § 54.101(a). Toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control. As the Commission found in its grant of ETC designation to Virgin Mobile, "the prepaid nature of [a prepaid wireless carrier's] service offering works as an effective toll control." *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, FCC 09-18 (rel. Mar. 5, 2009). Boomerang' calling plans do not distinguish between local or toll services, and instead offer nationwide calling with available usage is allocated

Wi-Fi enabled and E911-compliant, and customers are offered a choice of devices that are equipped with hotspot functionality;⁵⁶ (vi) the Company does not impose an additional or separate tethering charge for mobile data usage below the MSS;⁵⁷ and (vii) the Company provides subscribers with access to the emergency services provided by local government or other public safety organizations, including 911 and E911, where implemented by the local government in Boomerang's service areas. Boomerang satisfies applicable consumer protection and service quality standards. It is a member of, and continues its commitment to comply with, the CTIA Consumer Code for Wireless Service.

In accordance with section 54.202(a)(2) of the Commission's rules, Boomerang commits to remain functional in emergency situations. Back-up systems are in place to ensure full functionality in the event of a loss of power or network functionality. Boomerang's facilities are housed in a carrier-class data center with fully redundant power and HVAC, a controlled temperature and humidity environment, fire-threat detection and suppression, year-round critical monitoring and secure access with biometric security. The facility features redundant generators and redundant fiber optic connectivity. The data center is a reinforced concrete building located in a secure area and collocated with the area electrical utility headquarters. It is powered from separate paths independent of any one electrical generation plant. All systems within the facility are implemented on redundant servers, each with redundant data network and power. Direct carrier

in advance. Moreover, Boomerang will provide this form of toll control to qualifying low-income consumers at no additional charge. Pursuant to the 2012 Lifeline Reform Order, subscribers to such services are not considered to have voluntarily elected to receive toll limitation service (TLS). *See* 2012 Lifeline Reform Order, ¶ 230. Boomerang does not provide toll blocking service for its wireless service offerings.

⁵⁶ *See* 47 C.F.R. § 54.408(f); 2012 Lifeline Reform Order, ¶ 373.

⁵⁷ 47 C.F.R. § 54.408(f).

access with the T-Mobile/Sprint and Verizon networks provides additional tools to escalate network or hardware issues encountered on a local or regional basis. Contractual arrangements include direct escalation processes for tiered support depending on outage severity and number of customers affected.

Boomerang files FCC Form 555 with USAC annually, which is signed by a Company officer and includes a certification, under penalty of perjury, that the Company: (1) has policies and procedures in place to ensure that its Lifeline subscribers are eligible to receive Lifeline services;⁵⁸ (2) is in compliance with all federal Lifeline certification procedures;⁵⁹ and (3) is in compliance with the MSS set forth in section 54.408 of the Commission's rules.⁶⁰ To the extent necessary now that USAC conducts annual re-certification efforts, the Company provides to the Commission, USAC, applicable state commissions, and relevant Tribal governments (for subscribers residing on Tribal lands) the results of its re-certification efforts, performed pursuant to section 54.410(f) of the Commission's rules, annually by January 31st for its re-certification efforts of the previous year.⁶¹ Further, the Company reports annually to the Commission the number of subscribers de-enrolled for non-usage by month.⁶²

Boomerang files FCC Form 481 with the Commission, USAC, applicable state commissions, and the relevant authority in a U.S. territory or Tribal government, as appropriate, by July 1st of each year,⁶³ providing information regarding: (a) the company name, names of the

⁵⁸ See 2012 Lifeline Reform Order, ¶ 126; 47 C.F.R. § 54.416(a)(1).

⁵⁹ See 2012 Lifeline Reform Order, ¶ 127; 47 C.F.R. § 54.416(a)(2).

⁶⁰ See 47 C.F.R. § 54.416(a)(3).

⁶¹ See 2012 Lifeline Reform Order, ¶¶ 132, 148; 47 C.F.R. § 54.416(b).

⁶² See 2012 Lifeline Reform Order, ¶ 257; 47 C.F.R. § 54.405(e)(3).

⁶³ See 47 C.F.R. § 54.422(c).

company's holding company, operating companies and affiliates, and any branding (such as a "dba" or brand designation), as well as relevant universal service identifiers for each entity by Study Area Code;⁶⁴ (b) the terms and conditions of its Lifeline plans for voice telephony service offered specifically for low-income consumers during the previous year, including the number of minutes provided and whether there are additional charges to the consumer for service, such as minutes of use or toll calls;⁶⁵ and (c) if the Company is designated as an ETC by the Commission, pursuant to section 214(e)(6) of the Communications Act, service outages in the previous year, the number of complaints received, and certifications regarding service quality standards, consumer protection rules, and the Company's ability to function in emergency situations.⁶⁶

Boomerang cooperates with state and federal regulators to prevent waste, fraud and abuse. More specifically, the Company will: (a) assist the Commission, USAC, state commissions, and other ETCs in resolving instances of duplicative enrollment by Lifeline subscribers, including by providing to USAC and/or any state commission, upon request, the necessary information to detect and resolve duplicative Lifeline claims; (b) promptly investigate any notification that it receives from the Commission, USAC, or a state commission to the effect that one of its customers already receives Lifeline services from another carrier; and (c) de-enroll any subscriber whom the Company has a reasonable basis to believe is receiving Lifeline-supported service from another ETC or is no longer eligible.

⁶⁴ See 2012 Lifeline Reform Order, ¶¶ 296, 390; 47 C.F.R. § 54.422(a).

⁶⁵ See 2012 Lifeline Reform Order, ¶ 390; 47 C.F.R. § 54.422(a)(2).

⁶⁶ See 2012 Lifeline Reform Order, ¶ 389; 47 C.F.R. § 54.422(b)(1)-(4).

CONCLUSION

Boomerang submits that the Bureau should approve its revised Compliance Plan reflecting a proposed change in ownership of the Company and that this Compliance Plan continues to fully satisfy the conditions set forth in the Commission's 2012 Lifeline Reform Order, the Compliance Plan Public Notice, and the Commission's Lifeline orders and rules.

Respectfully submitted,



John J. Heitmann
Joshua Guyan
Chris M. Laughlin
Kelley Drye & Warren LLP
3050 K Street, NW, Suite 400
Washington, DC 20007
(202) 342-8400
jheitmann@kelleydrye.com

April 30, 2021

Exhibit A

Pre-Merger Organizational Chart

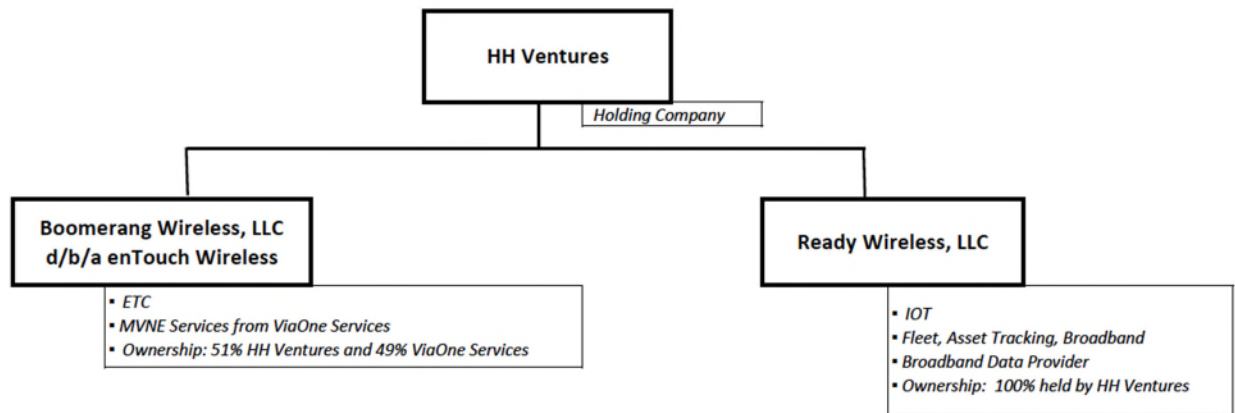


Exhibit B

Post-Merger Organizational Chart

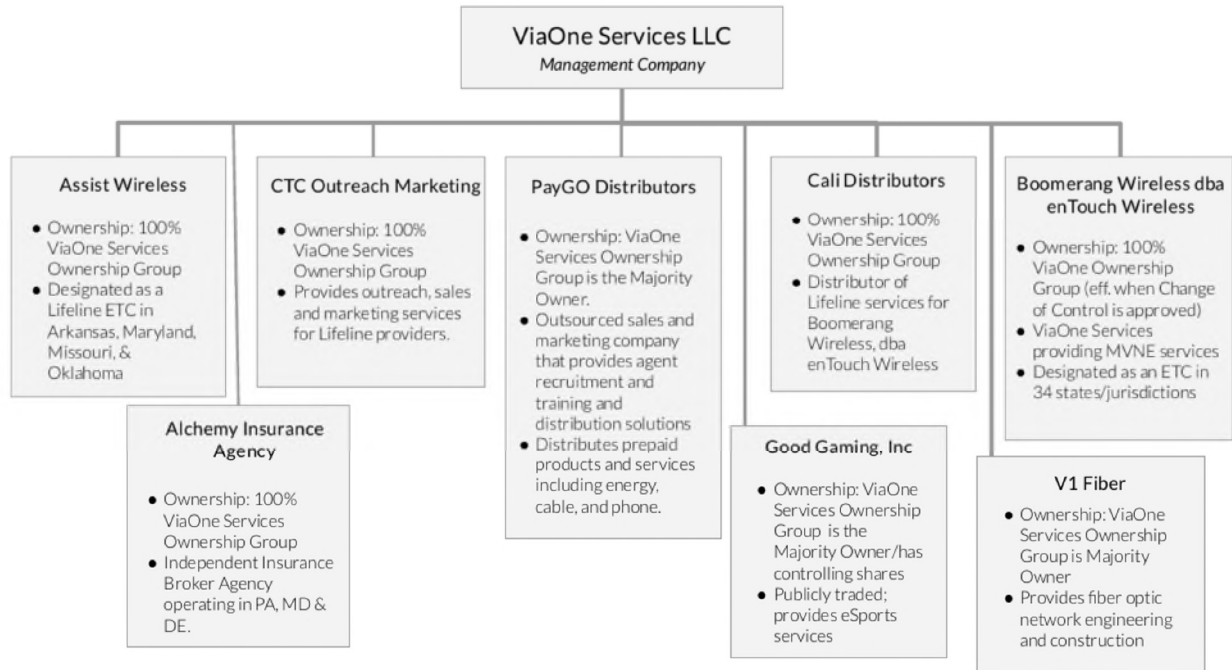


Exhibit C

Lifeline Service Plans

Boomerang (Non-Tribal) Lifeline Plans:

<i>Lifeline Plans</i>	1000 Bundled Voice plus 100 MB	1000 Voice & Unltd Text	1200 Voice, Unltd Text, 250 MB	1200 Voice, Unltd Text, 1 GB
<i>Customer Copay</i>	FREE	\$1.00	\$5.00	\$10.00
<i>Voice</i>	1000	1000	1200	1200
<i>Text</i>	500	unlimited	unlimited	unlimited
<i>Data</i>	100 MB	100 MB	250 MB	1GB
<i>MSS/Svc Type</i>	Bundled Voice <i>(Voice Default)</i>	Bundled Voice	Bundled Voice	Bundled Voice

<i>Lifeline Plans</i>	Unlimited Talk & Text plus 4.5 GB	Unlimited Talk & Text plus 5 GB	Unlimited Talk & Text plus 6 GB
<i>Customer Copay</i>	\$25.00	\$26.00	\$30.00
<i>Voice</i>	unlimited	unlimited	unlimited
<i>Text</i>	unlimited	unlimited	unlimited
<i>Data</i>	4.5 GB	5 GB	6 GB
<i>MSS/Svc Type</i>	Bundled Voice & Broadband	Bundled Voice & Broadband	Bundled Voice & Broadband

Boomerang Enhanced (Tribal) Lifeline Plans:

<i>Lifeline Plans</i>	Tribal Unlimited Unit & 4.5GB	Tribal Unlimited Unit & 5GB	Tribal Unlimited Unit & 6GB
<i>Customer Copay</i>	FREE	\$1.00	\$5.00
<i>Voice</i>	unlimited	unlimited	unlimited
<i>Text</i>	unlimited	unlimited	unlimited
<i>Data</i>	4.5 GB	5 GB	6 GB
<i>MSS/Svc Type</i>	Bundled Voice & Broadband <i>(Broadband Default)</i>	Bundled Voice & Broadband	Bundled Voice & Broadband

EXHIBIT B

Alabama Public Service Commission

Orders

**PINE BELT CELLULAR, INC. and PINE
BELT PCS, INC.,**

Joint Petitioners

**PETITION: For ETC status and/or
clarification regarding the jurisdiction of
the Commission to grant ETC status to
wireless carriers.**

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural

service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

May 25, 2012

In reply please refer to:
UR:Undocketed:PAP

John J. Heitmann
Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, D.C. 20007-5108

Re: Request for a Letter Confirming Lack of Jurisdiction Over Wireless Eligible
Telecommunications Carrier Petitions

Dear Messrs Heitmann and Guyan:

The Public Utilities Regulatory Authority (Authority) is in receipt of your March 28, 2012 letter concerning the Authority's jurisdiction over wireless mobile carrier services' rates and charges.

The Authority does not regulate or license wireless carrier services' rates and charges per the Federal Omnibus Budget Act of 1993. Therefore, all applications for eligible telecommunications carriers' status for wireless providers should be made to the Federal Communications Commission.

Sincerely,

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
PUBLIC UTILITIES REGULATORY AUTHORITY

Kimberley J. Santopietro
Executive Secretary

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
VERIZON DELAWARE INC., TO MODIFY THE)
LIFELINE SERVICE BY ADDING AN INCOME) PSC DOCKET NO. 05-016T
QUALIFIER TO THE ELIGIBILITY CRITERIA)
(FILED JUNE 17, 2005))

ORDER NO. 6736

This 11th day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.¹ And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

¹See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.² And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.³

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.⁴ In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.⁵ The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.⁶ Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.⁷

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

²See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

³From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

⁴In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

⁵47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

⁶47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

⁷47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.⁸ At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.⁹ Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.¹⁰ Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.¹¹ Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.¹²

⁸See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

⁹That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

¹⁰See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

¹¹See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

¹²See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).

5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, **IT IS ORDERED:**

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Norma J. Sherwood
Acting Secretary



Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpsc.org

March 27, 2012

Via First Class Mail

John J. Heitmann and Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour Suite 400
3050 K Street, NW
Washington, DC 20007-5108

Dear Mr. Heitmann and Mr. Guyan:

Thank you for your March 23, 2012 letter requesting information on whether the Public Service Commission of the District of Columbia ("Commission") designates wireless telecommunications carriers as eligible telecommunications carriers ("ETC") for the purposes of receiving federal universal service funding. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Commission does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate wireless telecommunications carriers as ETCs.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact Lara Walt at 202-626-9191 or lwalt@psc.dc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Beverly".

Richard A. Beverly
General Counsel

Enclosure



D.C. Council Home

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Welcome to the online source for the District of Columbia Official Code

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition Currentness

Division V. Local Business Affairs

Title 34. Public Utilities.

Subtitle V. Telecommunications. Chapter 20. Telecommunications Competition. **→§ 34-2006. Exemptions.**

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

CREDIT(S)

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104-104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through January 11, 2012

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STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

October 24, 2011

Ms. Kasey C. Chow
Lance J.M. Steinhart, P.C.
Attorney At Law
1725 Windward Concourse
Suite 150
Alpharetta, GA 30005

Re: Undocketed – Q Link Wireless LLC's ETC Designation

Dear Ms. Chow:

We received your October 18, 2011 letter advising that Q Link Wireless LLC, a commercial mobile radio service provider, wish to seek designation as an ETC in Florida. You also requested an affirmative statement that the Florida Public Service Commission no longer assert jurisdiction to designate commercial mobile radio service providers as eligible telecommunication carriers in Florida.

This letter acknowledges that the revisions to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider Q Link Wireless LLC's bid for ETC status.

Sincerely,

A handwritten signature in cursive script that reads "S. Curtis Kiser".

S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2013-00220

June 13, 2013

PUBLIC UTILITIES COMMISSION
Amendment to Standards for Designating
and Certifying Eligible
Telecommunications Carriers Qualified to
Receive Federal Universal Fund Support
(Ch. 206)

ORDER ADOPTING
AMENDED RULE AND
STATEMENT OF FACTUAL
AND POLICY BASIS

WELCH, Chairman; LITTELL and VANNOY, Commissioners

I. SUMMARY

By this Order, we adopt amendments to Chapter 206 of the Commission's rules which establishes standards for the designation and annual certification of Eligible Telecommunications Carriers (ETCs). After these amendments, the Commission will no longer certify carriers that apply for ETC designation for the sole purpose of offering Lifeline, Link-Up, or other low-income program benefits. Going forward, such carriers will apply to the Federal Communications Commission (FCC) for ETC designation.¹

II. BACKGROUND

Chapter 206, adopted by the Commission on November 20, 2007, established standards for the designation and annual certification of ETCs. The rule was created, in large measure, to supplement the federal rules for ETC designation to account for distinctions between the services provided by wireline and wireless ETCs.

Since the adoption of Chapter 206, carriers seeking ETC designation for the sole purpose of offering Lifeline, link-Up, or other low-income benefits have entered the market in ever increasing numbers.² The majority of these carriers are pre-paid wireless service providers that resell the cellular telephone service of large national carriers. These pre-paid wireless ETCs typically provide a telephone handset and offer a set number of minutes (anywhere from 68 to 250 minutes per month) to low-income

¹ This rule is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A of the Maine Revised Statutes.

² The federal Lifeline program provides a subsidy from the federal Universal Service Fund (USF) to ETCs for the purpose of providing discounted telephone service to qualifying low-income consumers. Link-Up is a federal program that provides a subsidy from the federal USF to ETCs to offset the cost of telephone service installation for low-income customers. The FCC has recently eliminated the Link-Up program for all areas of the country except Tribal Lands.

customers at no charge to the customer. The service is made "free" to the low-income customer by the application of a federal universal service fund subsidy (currently \$9.25 per month) to the monthly charge on a customer's account; a charge that exactly equals the amount of the subsidy.

When drafted, Chapter 206 did not contemplate the pre-paid Lifeline business model or the designation of "Lifeline-only" ETCs. Since the proliferation of pre-paid wireless Lifeline-only ETCs, the FCC has taken steps to standardize the certification requirements for such carriers. Notably the FCC recently enacted a requirement that a non-facilities-based wireless ETC applicant have a "compliance plan" approved by the FCC before a state commission or the FCC may designate the applicant as an ETC.³ Further, as there is no state subsidy for Lifeline service, the Commission expends substantial resources administering what is for all intents and purposes a federal program.

On April 9, 2013, we issued a Notice of Rulemaking (NOR) in this proceeding detailing the proposed amendments to Chapter 206. The Commission did not schedule a public hearing on this matter, but, pursuant to rulemaking procedures, we provided an opportunity for interested persons to request such a hearing; the Commission did not receive any public hearing requests. Additionally, we provided interested persons with an opportunity to provide written comments on the proposed amendments to Chapter 206. The deadline for submitting such comments was May 17, 2013; the Commission did not receive any comments by the deadline.

It is the view of the Commission that there is no longer any advantage to Maine consumers, financial or otherwise, for the Commission to certify ETCs that apply for the designation solely for the purpose of offering Lifeline service and receiving the federal Lifeline subsidy. Because the FCC will certify Lifeline-only ETCs, Maine consumers will continue to benefit from the availability of the services offered by those carriers.

In accordance with 5 M.R.S. § 8057-A(1), we stated in our NOR that we expect that there will be no fiscal impact from this rulemaking. Further, we stated that we expect that this rulemaking will not impose an economic burden on small businesses. We continue to believe this will be the case.

III. DISCUSSION OF THE RULE AMENDMENTS

A. Section 1: Purpose

In the NOR we proposed to amend Section 1 of the rule to specify that the Commission will not designate ETCs seeking such designation solely for the purpose of receiving support to provide Lifeline, Link-Up, or other low-income services, and that carriers seeking designation for that purpose must apply to the Federal

³ In our experience, the majority of Lifeline-only wireless ETCs are non-facilities-based resellers.

Communications Commission. No comments were received regarding this proposed amendment. Therefore, we adopt the amendment to Section 1 of the rule without modification.

B. Section 2: Definitions

1. Applicant

In the NOR we proposed to amend the definition of "Applicant" to exclude carriers seeking ETC designation solely for the purpose of receiving support to provide Lifeline or other low-income services.

2. Lifeline/Link-Up

In the NOR we proposed eliminating the definition of "Lifeline/Link-up."

No comments were received regarding these proposed amendments. Therefore, we adopt these amendments to Section 2 of the rule without modification.

C. Section 3: Contents of Petition by Applicant

In addition to several non-substantive editorial changes, in the NOR we proposed eliminating the provision in Section 3 that requires ETC applicants to include in their application a statement that the ETC will advertise the availability of low-income programs such as Lifeline and Link-Up. No comments were received regarding this proposed amendment. Therefore, we adopt these amendments to Section 3 of the rule without modification.

D. Section 6: Annual Reports

In addition to several non-substantive editorial changes, in the NOR we proposed eliminating the requirement that Competitive ETCs annually certify that they have publicized the availability of low-income programs such as Lifeline and Link-Up.⁴ No comments were received regarding this proposed amendment. Therefore, we adopt these amendments to Section 6 of the rule without modification.

E. Section 7: Applicability to Carriers Designated as ETCs Before the Effective Date of this Chapter

In the NOR we proposed eliminating a superfluous section requiring submission of information by ETCs that were designated prior to December 4, 2007.

⁴ A Competitive ETC is an ETC that is not an Incumbent Local Exchange Carrier.

No comments were received regarding this proposed amendment. Therefore, we adopt this amendment to Section 7 of the rule without modification.

IV. ORDERING PARAGRAPHS

In light of the foregoing, we

O R D E R

1. That the attached Chapter 206 is hereby adopted;
2. That the Administrative Director shall notify the following of the final adoption of the attached rule:
 - a. All Local Exchange Carriers in the State of Maine;
 - b. All Eligible Telecommunications Carriers in Maine;
 - c. The Telephone Association of Maine;
 - d. All people who have filed with the Commission within the past year a written request for any Notice of Rulemaking.
3. That the Administrative Director shall send copies of this Order and the final rule:
 - a. The Secretary of State for publication in accordance with 5 M.R.S. § 8053(5); and
 - b. Executive Director of the Legislative Council.

Dated at Hallowell, Maine, this 13th day of June, 2013.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Littell
Vannoy

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

THE STATE OF NEW HAMPSHIRE

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Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

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1-800-735-2964

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www.puc.nh.gov

March 28, 2011

RE: ETC Certification in New Hampshire

The federal Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) to promote the availability of quality services at just and reasonable rates to all consumers including low-income customers and those in high cost areas and to increase nationwide access to advanced services in schools, libraries and rural health care facilities. To qualify for universal service funding a carrier must first be certified as an Eligible Telecommunications Carrier (ETC) by the state public utilities commission or, if the state does not assert this authority, by the FCC. *See* 47 U.S.C. §214 (e).

The New Hampshire Public Utilities Commission maintains authority to determine whether landline telecommunications carriers qualify as ETCs. Pursuant to New Hampshire RSA 362:6, the Commission has no jurisdiction over mobile radio communications services. Consequently, the state declines jurisdiction over the certification of wireless carriers as ETCs, leaving that responsibility to the FCC.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Anne Ross".

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Designation of Carriers Eligible for Universal)
Carrier Support) ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS from the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Patricia Swenson".

Patricia Swenson, Deputy Clerk

pb082503.01

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 3, 2010

Ms. Jacqueline Hankins, Esq.
Helein & Marashlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, VA 22102

RE: Request for Letter Clarifying Jurisdiction over Wireless ETC Petitions

Dear Ms. Hankins:

Thank you for your letter sent to Mr. David Foster, Utilities Division Chief, dated October 25, 2010, inquiring about the Tennessee Regulatory Authority's ("Authority") jurisdiction to designate a wireless telecommunications carrier, such as Boomerang Wireless, LLC d/b/a Ready Mobile (f/k/a Boomerang Wireless, Inc., for Eligible Telecommunications Carrier ("ETC") certification in Tennessee. Your letter has been forwarded to me for review and response.

As your letter correctly indicates, the Authority does not assert that its state-delegated authority extends to wireless service providers. As a result, wireless carriers that seek ETC certification to provide such services in Tennessee are advised to file such requests with the Federal Communications Commission in accordance with 47 U.S.C.A. § 214(e)(6). The enclosed *Order Refusing Issuance of Declaratory Ruling*, issued on August 2, 2010,¹ provides detailed analysis of the Authority's wireless jurisdiction.

In Docket No. 02-01245, the Authority acknowledged the FCC's authority to perform ETC designations for carriers not subject to its jurisdiction, and announced that its *Order of April 11, 2003* would serve as an affirmative statement that it lacks jurisdiction to designate ETC certification to wireless carriers.² For your convenience, I have enclosed a copy of the Authority's order in that docket. In addition, you may access these and other

¹ *In re Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee*, Docket No. 10-00083, *Order Refusing Issuance of Declaratory Ruling* (August 2, 2010).

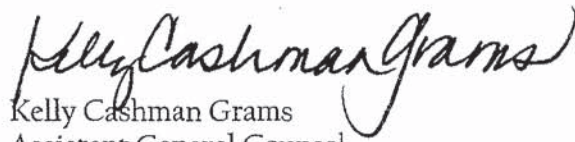
² *In re Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003).

Ms. Jacqueline Hankins, Esq.
Letter Clarifying Wireless Jurisdiction
November 1, 2010
Page 2

Authority dockets, including all public filings and orders, online via the Tennessee Regulatory Authority's website located at <http://www.state.tn.us/tra/>.

I trust that you will find the information provided above to be of assistance and appreciate the opportunity to serve you. In the event you have additional questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Cashman Grams". The signature is written in dark ink and is positioned above the printed name and title.

Kelly Cashman Grams
Assistant General Counsel

cc: David Foster, Utilities Division Chief

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR
SYSTEMS, INC. TO BE DESIGNATED AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

)
)
)
)
)
DOCKET NO.
02-01245

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.¹

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, "[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission."

The Authority's lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission's jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission ("FCC") to perform the ETC designation.²

¹ This finding is not inconsistent with the Authority's decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission's rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

² 47 U.S.C. § 214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."³ Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."⁴

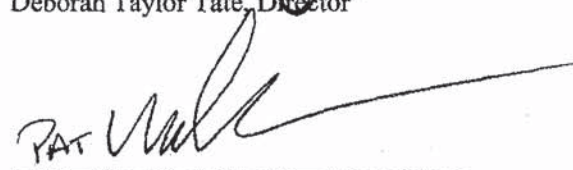
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier is dismissed for lack of subject matter jurisdiction.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

³ *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

⁴ *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 2, 2010

IN RE:)	
)	
PETITION FOR DECLARATORY RULING)	DOCKET NO.
AND NUNC PRO TUNC DESIGNATION OF)	10-00083
NEXUS COMMUNICATIONS AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER TO)	
OFFER WIRELESS SERVICE IN TENNESSEE)	

ORDER REFUSING ISSUANCE OF DECLARATORY RULING

This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority ("Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 24, 2010, for consideration of the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* ("Petition") filed by Nexus Communications, Inc. ("Nexus") on April 28, 2010.

BACKGROUND & PROCEDURAL HISTORY

On October 18, 2007, Nexus filed with the Authority an application for a Certificate of Public Convenience and Necessity ("CCN") to provide competing facilities-based and resold local telecommunications services in Tennessee.¹ In its application, among other things, Nexus stated that it would be providing service through an interconnection/resale agreement with

¹ See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Application of Nexus Communications, Inc. for Authority to Provide Competing Local Exchange & Interexchange Service* (October 18, 2007).

BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee ("AT&T Tennessee") and had no plans to install facilities.² Nexus further agreed to adhere to all Authority policies, rules, and orders and to submit wireline activity reports as required.³ The application, however, makes no mention of Nexus providing wireless service in Tennessee. In an Order dated January 8, 2008, the TRA granted Nexus' application for a CCN, authorizing Nexus to provide competing facilities-based and resold local telecommunications services in Tennessee as described in its application.⁴

On July 11, 2008, Nexus filed an application for designation as an eligible telecommunications carrier ("ETC") with the Authority in Docket No. 08-00119.⁵ In its ETC application, Nexus stated that it was applying for designation in the service territory of AT&T Tennessee and provided a list of the wire centers for which it requested ETC status.⁶ In addition, Nexus stated that it was seeking designation only for low-income support⁷ and affirmed that it satisfied all statutory requirements for designation.⁸ Consistent with its CCN application, Nexus' ETC application also omitted any mention that Nexus provided wireless service or that it intended to provide wireless service as an ETC.

² *Id.* at 1 and 7.

³ *Id.* at 11 and 13.

⁴ See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Initial Order Granting Certificate of Public Convenience and Necessity* (January 8, 2008).

⁵ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

⁶ *Id.*

⁷ Lifeline and Link Up are two components of the Low Income Program of the Universal Service Fund. The Fund, administered by the Universal Service Administration Company ("USAC"), is designed to ensure that quality telecommunications services are available to low-income customers at just, reasonable and affordable rates. Lifeline support lowers the monthly charge of basic telephone service for eligible consumers. Link Up support reduces the cost of initiating new telephone service. The Federal Communications Commission's rules concerning Lifeline and Link Up are codified at 47 C.F.R. § 54.400-417. See, *Assessment of Payments Made Under the Universal Service Fund's Low Income Program*, 2008 WL 5205212 (2008).

⁸ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

Thereafter, the Authority conducted a review of Nexus' qualifications in accordance with the information provided by Nexus in its ETC application. On October 27, 2008, finding the statutory requirements satisfied, the TRA granted Nexus' ETC application and, based thereon, issued an Order designating Nexus as an ETC in the Tennessee service area footprint of AT&T Tennessee.⁹ As designated by a state commission, like the TRA, Nexus' ETC designation enables it to receive federal low-income universal service support funding in accordance with, and subject to, the authority of the state commission to grant such designation under both state and federal law.¹⁰

Subsequently, on March 23, 2009, Nexus filed a petition requesting that the TRA amend its ETC Order to describe Nexus' services in Tennessee as "wireline and wireless."¹¹ Nexus' request for modification of the ETC Order revealed for the first time that Nexus serves its customers using both wireline and wireless technologies. On June 7, 2009, the TRA declined to amend the language of the ETC Order as Nexus requested and instead amended its ETC Order to definitively state that Nexus had ETC designation for "wireline local exchange services."¹²

On November 25, 2009, Steven Fenker, President of Nexus, filed a letter in Docket No. 08-00119 indicating that, based on the TRA's orders, Nexus applied for and was assigned two Study Area Codes enabling it to receive federal universal service low-income funding for the

⁹ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("ETC Order") (October 27, 2008).

¹⁰ 47 U.S.C.A. §§ 254(e) and §214(e)(2) and (6).

¹¹ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* ("Petition for Clarification") (March 23, 2009).

¹² See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Granting Petition for Clarification and Issuance of Amended Order*, p. 2, and attached thereto, *Amended Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("Amended ETC Order"), p. 3 ¶ 3 (June 7, 2009).

provision of Lifeline service using both wireline and wireless technologies.¹³ In his letter, Mr. Fenker asserted that such action was consistent with Nexus' interpretation of Federal Communications Commission ("FCC") Rule 54.201(h), which directs state commissions to designate ETC status to qualified carriers regardless of the technology used to provide service. Moreover, Nexus contended that FCC rule § 54.201(h) broadly authorizes a state-designated ETC to provide service to, and receive federal universal service support funding for, low-income customers using any technology the carrier wishes to offer.¹⁴ In addition, Mr. Fenker stated that Nexus, as a "certified carrier," is subject to TRA enforcement of Lifeline and Link Up regulations as to both wireline and wireless service. Yet, Nexus also stated that it "voluntarily submits" to the TRA's jurisdiction and would comply with TRA rulings enforcing state and federal Lifeline and Link Up regulations "irrespective of the technology Nexus uses to provide service."¹⁵

THE PETITION

Subsequent to its notification from USAC that certain universal service support payments made to Nexus for wireless ETC service were not authorized,¹⁶ Nexus filed on April 28, 2010, a *Petition* urging the Authority to declare that the TRA has jurisdiction under federal and state law to designate Nexus as a wireless ETC, and further, to declare *nunc pro tunc* that Nexus' ETC designation includes authority to provide a wireless low-income offering, *i.e.*, Lifeline and/or Link Up service, in Tennessee.¹⁷ In its *Petition*, Nexus acknowledges that neither the initial ETC

¹³ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, Letter from Steven Fenker, President, Nexus Communications, Inc. (November 25, 2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ As referenced in the *Petition*, p. 4 ¶ 13, a letter dated April 16, 2010, from USAC indicated that because Nexus did not appear to be authorized or designated by the TRA to provide wireless ETC service, disbursement of subsidies to Nexus for wireless low-income program subscribers would be discontinued and further, USAC might seek reimbursement from Nexus of monies previously paid to it for such unauthorized services.

¹⁷ *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee ("Petition")* (April 28, 2010).

Order nor the Amended ETC Order mentioned or specifically granted authority to Nexus to provide wireless ETC services.¹⁸ Despite this admission, Nexus reiterates its earlier contentions that based on the TRA's orders designating Nexus as an ETC and Nexus' interpretation of FCC Rules, specifically 47 C.F.R. § 54.201(h), it is justified in applying for and obtaining two Study Area Codes to provide federally-subsidized service to low-income customers using wireline¹⁹ and wireless technologies.²⁰

In its *Petition*, Nexus further asserts that the Authority is empowered to authorize Nexus to provide federally subsidized low-income wireless service not only under federal law, but also under state law.²¹ At paragraph 17, Nexus proffers its interpretation of Tenn. Code Ann. § 65-4-101(6)(F) concerning the limits of regulation upon providers of "domestic public cellular radio telephone service," commonly known as commercial mobile radio service ("CMRS") or wireless telephone service, and the statute's classification of providers of such services as "nonutilities." According to Nexus, Tenn. Code Ann. § 65-4-101(6)(F) does not preclude but, instead, preserves, the exercise of TRA jurisdiction over the wireless service of a certificated carrier that is subject to regulation under Chapter 5 of Title 65.²²

Nexus asserts that Tenn. Code Ann. § 65-4-101(6)(F) distinguishes between a CMRS provider that exclusively offers wireless service in competition with another CMRS provider and a CMRS provider that is classified as a public utility due to also furnishing services regulated by

¹⁸ *Petition*, pp. 2-3, ¶¶ 2 and 7 (April 28, 2010).

¹⁹ *Petition*, p. 3, ¶¶ 8-9 and footnote 2 (April 28, 2010) ("Nexus applied for a wireline code on July 24, 2009, and received it two days later on July 31, 2009."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 16 (April 28, 2010) ("On July 29, 2009 Nexus submitted to USAC a Study Area Code ("SAC Code") request form for technology type 'wireline.' USAC after only a two day review of the Original Order issued Nexus a separate 'wireline' SAC Code on July 31, 2009.").

²⁰ *Petition*, p. 3 (April 28, 2010) ("Two months later, on August 21, 2009, USAC issued Nexus a wireless code for Tennessee."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 15 (April 28, 2010) ("USAC after a two month review of the application and an analysis of both Orders, finally issued Nexus a separate "wireless" SAC Code on August 21, 2009.").

²¹ *Petition*, p. 5, ¶¶ 16-17.

²² *Petition*, pp. 5-6, ¶ 17(a-g).

the TRA. Further, Nexus contends that because it is subject to TRA jurisdiction for its wireline/landline services, it is likewise subject to TRA regulation as a CMRS provider for its wireless service, at least insofar as concerns designation of ETC.²³

On May 11, 2010, Nexus filed an *Amendment to Petition* supplementing its interpretation of the statutory provision at issue and inserting an additional argument in support of its assertion that the TRA's jurisdiction currently includes wireless telephone service. In its *Amendment to Petition*, Nexus asserts that the language of Tenn. Code Ann. § 65-4-101(6)(F) acts to deregulate only certain entities that provide wireless service, and not the service itself.²⁴ To illustrate its point, Nexus offers its comparative analysis of the language of the subject statute with language found in Tenn. Code Ann. § 65-5-203 (2006), which prohibits the exercise of TRA jurisdiction over broadband services. Based on its comparison of the statutes, Nexus contends that the regulatory exemption found in Tenn. Code Ann. § 65-4-101(6)(F) is not for uniform application. Rather, Nexus surmises that had the legislature intended to exempt wireless service from the TRA's jurisdiction, it could have done so using the language of the later-enacted broadband statute.²⁵ In other words, because Tenn. Code Ann. § 65-4-101(6)(F)²⁶ does not utilize language identical to the 2006 broadband statute, this somehow evidences an intent to provide, and not to remove, TRA jurisdiction for particular entities only, *i.e.*, that providers of wireless service that also offer a service that the TRA has jurisdiction to regulate, should be subject to TRA regulation for services that it provides that the TRA would not otherwise have jurisdiction.

Finally, Nexus contends that because it purports to supply landline telephone service and does not exclusively provide wireless telephone services and, thus, "is not one of those entities"

²³ *Petition*, p. 6, ¶ 17(d-f).

²⁴ *Amendment to Petition* (May 11, 2010).

²⁵ *Id.*

²⁶ Tenn. Code Ann. § 65-4-101(6)(F) was enacted prior to 1995, while the Tennessee Public Service Commission ("TPSC") was still in existence. In 1995, the 99th General Assembly abolished the TPSC and thereafter created the TRA in its stead to effectively govern and regulate public utilities in the state of Tennessee.

to which, under its interpretation of the statute, the regulatory exemption applies.²⁷ That is, because the TRA has jurisdiction over Nexus' landline service, it follows that the TRA also has jurisdiction and authority over Nexus' wireless service - but only to the extent necessary to designate it eligible to receive federal subsidies for wireless service to qualified low-income consumers. In short, Nexus claims that as a certificated competing local exchange carrier ("CLEC"), and therefore a public utility subject to TRA jurisdiction, it is and remains a public utility, if not for all of its services, then at least for the limited purpose of receiving wireless ETC designation.

FINDINGS AND CONCLUSIONS

In this docket, Nexus asks the TRA to declare that it has jurisdiction under federal and state law to designate Nexus as a wireless ETC provider, and further, to declare *nunc pro tunc* that the ETC designation for wireline services granted to Nexus by the TRA on October 27, 2008, included authority to provide wireless Lifeline and Link Up services in Tennessee, thereby, making Nexus eligible as of that date to receive federal universal support funding for provision of wireless services.

To preserve and advance universal telecommunications service, the United States Congress has made federal funding, or subsidies, available to telecommunications carriers that meet certain minimum requirements.²⁸ The Authority agrees with Nexus insofar as that, under federal law, state commissions, such as the TRA, hold relatively broad power to designate as ETCs telecommunications carriers that meet those requirements, thereby enabling such carriers to receive federal universal service subsidies.²⁹ In addition, under 47 C.F.R. § 54.201(h), a state commission that determines that a carrier has satisfied the prerequisites for ETC designation is

²⁷ *Id.*

²⁸ 47 U.S.C.A. § 254(e).

²⁹ 47 U.S.C.A. § 214(e)(2).

not restricted from granting, nor permitted to deny, ETC designation due to such carrier's chosen method of distributing service.³⁰ The TRA further recognizes that when a carrier seeking ETC designation is not subject to the jurisdiction of a state commission, whether due to the nature or geographical location of its service, federal law directs that the FCC perform the designation.³¹

Notwithstanding the potential authority that the TRA may have under federal law, ultimately, the TRA is a legislatively created body of the state and empowered only to exercise the jurisdiction, power, and authority delegated to it by the Tennessee General Assembly.³² In *BellSouth Advertising & Publishing Corp. v. TRA*, the Supreme Court of Tennessee stated, "In defining the authority of the TRA, this Court has held that '[a]ny authority exercised by the TRA must be the result of an express grant of authority by statute or arise by necessary implication from the expressed statutory grant of power.'"³³ The General Assembly has charged the TRA with "general supervisory and regulatory power, jurisdiction and control over all *public utilities*" within Tennessee.³⁴

While "public utility" is defined broadly within Tenn. Code Ann. § 65-4-101, the General Assembly has expressly excluded "nonutilities" from the TRA's jurisdiction.³⁵ "Nonutilities" has been defined to include any entity "offering domestic public cellular radio telephone service" (*i.e.*, CMRS and wireless service providers).³⁶

(6) . . . "Public utility" as defined in this section shall not be construed to include the following *nonutilities*:

(F) Any individual, partnership, copartnership, association, corporation or joint stock company offering *domestic public cellular radio telephone service* authorized by the federal communications commission . . .³⁷

³⁰ 47 C.F.R. § 54.201(h).

³¹ 47 U.S.C.A. § 214(e)(6).

³² *BellSouth Advertising & Publishing Corp. v. Tennessee Regulatory Auth.*, 79 S.W.3d 506, 512 (Tenn. 2002); *Tennessee Pub. Serv. Comm'n v. Southern Ry. Co.*, 554 S.W.2d 612, 613 (Tenn. 1977).

³³ *Id.*

³⁴ Tenn. Code Ann. § 65-4-104 (*emphasis added*).

³⁵ Tenn. Code Ann. § 65-4-101(6).

³⁶ Tenn. Code Ann. § 65-4-101(6)(F).

³⁷ Tenn. Code Ann. § 65-4-101(6)(F) (*emphasis added*).

In addition, the statute provides a regulatory exception to the complete removal of regulatory authority over such providers so long as competition is restricted to one CMRS provider in the same cellular geographical area. Even then, the TRA has limited jurisdiction to review only the customer rates of such providers:

... until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographic area within the state, the *customer rates only of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee Regulatory Authority pursuant to §§ 65-5-101 – 65-5-104.*...³⁸

The TRA's delegated authority over wireless service providers is limited to rates, conditioned on and extending only until the FCC has authorized two wireless providers to offer service in the same cellular geographical area of the state. Expressly set out within the statutory provision itself is the triggering event that rescinds the TRA's limited grant of jurisdiction over wireless providers:

... Upon existence in a cellular geographical area of the conditions set forth in the preceding sentence, domestic public cellular radio telephone service in such area [where the FCC has authorized two providers], for all purposes, shall automatically cease to be treated as a public utility. . . . The [TRA's] authority . . . is expressly limited [to the absence of two authorized providers] and the authority shall have no authority over resellers of domestic public cellular radio telephone service. . . . This subdivision (6)(F) does not affect, modify or lessen the regulatory authority's authority over public utilities that are subject to regulation pursuant to chapter 5 of this title.³⁹

The TRA has long recognized the plain language of Tenn. Code Ann. § 65-4-101(6)(F) limits, and removes, the TRA's authority over wireless service providers. Thus, the TRA has consistently acknowledged its lack of state-delegated authority over CMRS providers in both the

³⁸ *Id.*

³⁹ *Id.*

broad sense⁴⁰ and specifically as to ETC designation.⁴¹ As set forth extensively above, Nexus sought a ruling on the issue of wireless ETC designation previously when it filed its *Petition for Clarification* with the Authority in Docket No. 08-00119.⁴² Consistent with its previous rulings on matters involving wireless service, the Authority finds that it does not have jurisdiction over wireless providers based on the express definition of “nonutilities” found in Tenn. Code Ann. § 65-4-101(6)(F), and therefore, specifically does not have subject matter jurisdiction over the precise issue upon which the Company seeks a declaratory ruling.

Tenn. Code Ann. § 4-5-223⁴³ provides that a state agency, upon petition for a declaratory order, must either convene a contested case hearing and issue a declaratory order or refuse to issue a declaratory order within sixty days of receipt of the petition. In the case of *Hughley v. State*, the Tennessee Supreme Court found that the lack of a contested case hearing on the

⁴⁰ See *In re: Sprint Communications Company, L.P.*, Docket No. 96-01411, *Final Order of Arbitration Awards* (March 26, 1997), PUR Slip Copy, 1997 WL 233027 *5 (during an Arbitration Conference held on March 26, 1997, the Authority acknowledged its lack of jurisdictional authority to regulate cellular wireless providers when, in ruling on a dispute between Sprint and BellSouth concerning the placement of combined traffic types (local, toll, and wireless) on the same trunk groups, and despite ultimately voting two to one on the specific issue, the Authority panel members all agreed that the Authority lacked jurisdiction over wireless.)

⁴¹ See *In re: Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003) (dismissing the application of Advantage Cellular Systems, Inc. for designation as an ETC because, as Advantage Cellular was a CMRS provider, the TRA lacked subject matter jurisdiction because the definition of public utilities under Tenn. Code Ann. § 65-4-101 specifically excludes CMRS providers. In addition the panel noted that under 47 U.S.C.A. § 214(e)(6), the FCC is authorized to perform ETC designations for carriers that are not subject to TRA jurisdiction and that its *Order* serves as an affirmative statement that it lacks jurisdiction to perform the ETC designation as to CMRS carriers.)

⁴² See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* (March 23, 2009).

⁴³ Tenn. Code Ann. § 4-5-223(a) provides:


- (a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule, or order within the primary jurisdiction of the agency. The agency shall:
 - (1) Convene a contested case hearing pursuant to the provisions of this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
 - (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

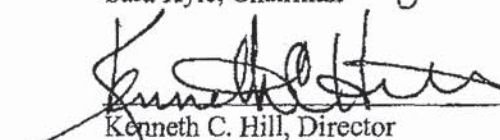
Tenn. Code Ann. § 4-5-223(c) states, “[i]f an agency has not set a petition for declaratory order for a contested case hearing within sixty (60) days after receipt of the petition, the agency shall be deemed to have denied the petition and to have refused to issue a declaratory order.”

petition constitutes refusal to issue a declaratory order under Tenn. Code Ann. § 4-5-223(a)(2), even when the agency provides a decision with reasons that may go to the merits of the petition.⁴⁴ Accordingly, for the above stated reasons, the panel voted unanimously to refuse to issue a declaratory order pursuant to Tenn. Code Ann. § 4-5-223(a)(2).

IT IS THEREFORE ORDERED THAT:

In accordance with Tenn. Code Ann. § 4-5-223(a)(2), the Tennessee Regulatory Authority refuses to issue a declaratory order on the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* filed by Nexus Communications, Inc.


Sara Kyle, Chairman


Kenneth C. Hill, Director


Mary W. Freeman, Director

⁴⁴ *Hughley v. State*, 208 S.W.3d 388 (Tenn. 2006) (holding that a letter of denial from the Department of Correction, issued without a hearing in response to a petition for declaratory order, is not equivalent to a "final order" in a contested case proceeding even when such response is issued after research and analysis of petitioner's grounds for seeking same and purports to deny petitioner's claims on the merits, and accordingly, the sixty-day statute of limitations established in Tenn. Code Ann. § 4-5-322(b)(1) is not applicable.).

COMMONWEALTH OF VIRGINIA



WILLIAM IRBY
DIRECTOR

STEVEN C. BRADLEY
DEPUTY DIRECTOR

KATHLEEN A. CUMMINGS
DEPUTY DIRECTOR

P.O. BOX 1197
RICHMOND, VA
23218-1197

TELEPHONE: (804) 371-9420
FAX: (804) 371-9069

STATE CORPORATION COMMISSION DIVISION OF COMMUNICATIONS

November 17, 2010

Ms. Jacqueline Hankins
Helein & Marshlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, Virginia 22102

Dear Ms. Hankins:

This is in response to your October 25, 2010 letter to me on behalf of Boomerang Wireless LLC, d/b/a Ready Mobile ("Boomerang") requesting clarification of the Virginia State Corporation Commission's ("Commission") jurisdiction over the designation of wireless Eligible Telecommunications Carriers ("ETC") in Virginia.

Only one wireless carrier, Virginia Cellular LLC, has sought designation as an ETC in Virginia. In that instance (Case No. PUC010263), by order dated April 9, 2002, the Commission determined, pursuant to Section 214 (e) (6) of the Telecommunications Act of 1996, that Virginia Cellular LLC should apply to the Federal Communications Commission for ETC designation because it had not asserted jurisdiction over CMRS carriers. A copy of this order is enclosed.

Very truly yours,

William Irby

WI/ctj

Enclosure

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.¹

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC970135

Ex Parte, in re: Implementation
of Requirements of § 214(e) of the
Telecommunications Act of 1996

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC010263

For designation as an eligible
telecommunications provider under
47 U.S.C. § 214(e) (2)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq., ("Act") and associated Federal Regulations.¹ The Commission's exercise of its jurisdiction under § 214(e) (2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant.

¹ 47 C.F.R. § 54.201-207.

All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.²

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.³ Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.⁴

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has

² See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

³ Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

⁴ On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

failed to demonstrate how the public interest will be served.⁵ NTELOS and VTIA each allude in their comments to other expected applications for ETC designation¹ by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.⁶ Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service

⁵ § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

⁶ The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.⁷ Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.⁸ In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."⁹

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the

⁷ Reply Comments at p. 5.

⁸ Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

⁹ Reply Comments at p. 3.

Applicant should apply to the FCC for ETC designation.¹⁰ The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R.

§ 54.207(c).¹¹ The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R.

§ 54.207(a)).¹² Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.¹³

¹⁰ The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

¹¹ The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

¹² Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

¹³ At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all LECs certified in the Commonwealth of Virginia, as set out in Appendix A of this Order; David A. LaFuria, Esquire, Lukas Nace Gutierrez & Sachs, 1111 Nineteenth Street, N.W., Suite 1200, Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; William F. Caton, Acting Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554; and the Commission's Office of General Counsel and Division of Communications.

EXHIBIT C

State	SAC	Study Area Name	Rural or Non-Rural
AL	255181	SO CENTRAL BELL-AL	Non-rural
AL	259788	CENTURYTEL-AL-SOUTH	Non-rural
AL	259789	CENTURYTEL-AL-NORTH	Non-rural
AL	250282	BLOUNTSVILLE TEL CO	Rural
AL	250283	BRINDLEE MOUNTAIN	Rural
AL	250284	BUTLER TEL CO	Rural
AL	250285	CASTLEBERRY TEL CO	Rural
AL	250286	NATIONAL OF ALABAMA	Rural
AL	250290	FARMERS TELECOM COOP	Rural
AL	250295	KNOLOGY TOTAL COMMUNICATIONS	Rural
AL	250298	GULF TEL CO - AL	Rural
AL	250299	HAYNEVILLE TEL CO	Rural
AL	250300	HOPPER TELECOM.CO	Rural
AL	250301	FRONTIER-LAMAR CNTY	Rural
AL	250302	WINDSTREAM AL	Rural
AL	250304	MILLRY TEL CO	Rural
AL	250305	MON-CRE TEL COOP	Rural
AL	250306	FRONTIER COMM.-AL	Rural
AL	250307	MOUNDVILLE TEL CO	Rural
AL	250308	NEW HOPE TEL COOP	Rural
AL	250311	OAKMAN TEL CO (TDS)	Rural
AL	250312	OTELCO TELEPHONE LLC	Rural
AL	250314	PEOPLES TEL CO	Rural
AL	250315	PINE BELT TEL CO	Rural
AL	250316	RAGLAND TEL CO	Rural
AL	250317	ROANOKE TEL CO	Rural
AL	250318	FRONTIER COMM-SOUTH	Rural
AL	250322	UNION SPRINGS TEL CO	Rural
CT	132454	THE WOODBURY TEL CO	Rural
CT	135200	SOUTHERN NEW ENGLAND	Non-rural
DC	575020	VERIZON WA, DC INC.	Non-rural
DE	565010	VERIZON DELAWARE INC	Non-rural
FL	210328	VERIZON FLORIDA	Non-rural
FL	215191	FL SO. CENTRAL BELL	Non-rural
FL	210291	GTC, INC.	Rural
FL	210318	FRONTIER COMM-SOUTH	Rural
FL	210329	GTC, INC.	Rural
FL	210330	SMART CITY TEL LLC	Rural
FL	210331	ITS TELECOMM. SYS.	Rural
FL	210335	NORTHEAST FLORIDA	Rural
FL	210336	WINDSTREAM FL	Rural
FL	210338	QUINCY TEL CO-FL DIV	Rural
FL	210339	GTC, INC.	Rural
FL	210341	EMBARQ FLORIDA INC. FKA SPRINT	Rural

ME	100002	OXFORD COUNTY TELEPHONE & TELEGRAPH CO.	RURAL
ME	100003	LINCOLNVILLE NETWORKS INC.	RURAL
ME	100003	TIDEWATER TELECOM INC	RURAL
ME	100004	CHINA TELEPHONE CO.	RURAL
ME	100005	COBBOSSEECONTEE TELEPHONE COMPANY	RURAL
ME	100007	THE ISLAND TELEPHONE COMPANY	RURAL
ME	100010	HAMPDEN TELEPHONE COMPANY	RURAL
ME	100011	HARTLAND AND ST. ALBANS TELEPHONE COMPANY	RURAL
ME	100015	COMMUNITY SERVICE TELEPHONE CO	RURAL
ME	100019	OXFORD WEST TELEPHONE COMPANY	RURAL
ME	100020	PINE TREE TELEPHONE LLC (WHOLLY OWNED SUB OF OTELCO INC.)	RURAL
ME	100022	SACO RIVER TELEPHONE LLC (WHOLLY OWNED SUB OF OTELCO INC.)	RURAL
ME	100024	SOMERSET TELEPHONE COMPANY	RURAL
ME	100025	FAIRPOINT NEW ENGLAND - MAINE TELEPHONE CO	NONRURAL
ME	100025	STANDISH TELEPHONE COMPANY	RURAL
ME	100027	UNION RIVER TELEPHONE CO.	RURAL
ME	100029	UNITEL INC.	RURAL
ME	100031	WARREN TELEPHONE COMPANY	RURAL
ME	100034	THE WEST PENOBSCOT TELEPHONE AND TELEGRAPH COMPANY	RURAL
ME	103313	NORTHLAND TELEPHONE COMPANY OF MAINE INC.	RURAL
ME	103313	SIDNEY TELEPHONE COMPANY	RURAL
ME	103315	MID-MAINE TELECOM LLC (WHOLLY OWNED SUB OF OTELCO INC)	RURAL
ME	105111	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	NONRURAL
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	Non-rural
NC	235193	SOUTHERN BELL-NC	Non-rural
NC	230468	ATLANTIC MEMBERSHIP	Rural
NC	230469	BARNARDSVILLE TEL CO	Rural
NC	230470	CAROLINA TEL & TEL	Rural
NC	230471	CENTEL OF NC	Rural
NC	230473	CITIZENS TEL CO	Rural
NC	230474	CONCORD TEL CO	Rural
NC	230476	WINDSTREAM NC	Rural
NC	230478	ELLERBE TEL CO	Rural
NC	230483	LEXCOM TELEPHONE CO.	Rural
NC	230485	MEBTel, INC.	Rural
NC	230491	N.ST. DBA N. ST.COMM	Rural
NC	230494	PINEVILLE TEL CO	Rural
NC	230495	RANDOLPH TEL CO	Rural
NC	230496	RANDOLPH MEMBERSHIP	Rural
NC	230497	PIEDMONT MEMBERSHIP	Rural
NC	230498	SALUDA MOUNTAIN TEL	Rural
NC	230500	SERVICE TEL CO	Rural
NC	230501	SKYLINE MEMBERSHIP	Rural
NC	230502	STAR MEMBERSHIP CORP	Rural

NC	230503	SURRY MEMBERSHIP	Rural
NC	230505	TRI COUNTY TEL MEMBR	Rural
NC	230510	WILKES MEMBERSHIP	Rural
NC	230511	YADKIN VALLEY TEL	Rural
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	Non-rural
NH	120038	BRETTON WOODS TEL CO	Rural
NH	120039	GRANITE STATE TEL	Rural
NH	120042	DIXVILLE TEL CO	Rural
NH	120043	DUNBARTON TEL CO	Rural
NH	120045	KEARSARGE TEL CO	Rural
NH	120047	MERRIMACK COUNTY TEL	Rural
NH	120049	UNION TEL CO	Rural
NH	120050	WILTON TEL CO - NH	Rural
NH	123321	MCTA, INC.	Rural
TN	290280	ARDMORE TEL CO	Rural
TN	290552	CENTURYTEL-ADAMSVILL	Rural
TN	290553	BEN LOMAND RURAL	Rural
TN	290554	BLED SOE TEL COOP	Rural
TN	290557	CENTURY-CLAIBORNE	Rural
TN	290559	CONCORD TEL EXCHANGE	Rural
TN	290561	CROCKETT TEL CO	Rural
TN	295185	SO. CENTRAL BELL -TN	Non-rural
TN	290562	DEKALB TEL COOP	Rural
TN	290565	HIGHLAND TEL COOP-TN	Rural
TN	290566	HUMPHREY'S COUNTY	Rural
TN	290567	UNITED INTER-MT-TN	Rural
TN	290570	LORETTO TEL CO	Rural
TN	290571	MILLINGTON TEL CO	Rural
TN	290573	NORTH CENTRAL COOP	Rural
TN	290574	CENTURYTEL-OOLTEWAH	Rural
TN	290575	TENNESSEE TEL CO	Rural
TN	290576	PEOPLES TEL CO	Rural
TN	290578	TELLICO TEL CO	Rural
TN	290579	TWIN LAKES TEL COOP	Rural
TN	290580	CTZENS-FRNTR-VOL ST	Rural
TN	290581	UTC OF TN	Rural
TN	290583	WEST TENNESSEE TEL	Rural
TN	290584	YORKVILLE TEL COOP	Rural
TN	290598	WEST KENTUCKY RURAL TELEPHONE	Rural
TN	294336	CITIZENS-FRONTIER-TN	Rural
VA	195040	VERIZON VIRGINIA INC	Non-rural
VA	190233	VERIZON S-VA(CONTEL)	Non-rural
VA	190217	AMELIA TEL CORP	Rural
VA	190219	BUGGS ISLAND COOP	Rural
VA	190220	BURKE'S GARDEN TEL	Rural
VA	190225	CITIZENS TEL COOP	Rural
VA	190226	NTELOS, INC.	Rural

VA	190237	HIGHLAND TEL COOP	Rural
VA	190238	MGW TEL. CO. INC.	Rural
VA	190239	NEW HOPE TEL COOP	Rural
VA	190243	PEMBROKE TEL COOP	Rural
VA	190244	PEOPLES MUTUAL TEL	Rural
VA	190248	SCOTT COUNTY COOP	Rural
VA	190249	ROANOKE & BOTETOURT	Rural
VA	190250	SHENANDOAH TEL CO	Rural
VA	190253	VIRGINIA TEL CO	Rural
VA	190254	CENDEL OF VIRGINIA	Rural
VA	190479	VERIZON SOUTH-VA	Rural
VA	190567	UNITED INTER-MT-VA	Rural
VA	193029	NEW CASTLE TEL. CO.	Rural
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	Rural